

JUSTICE FOR WAGE THEFT SERIES, VOLUME 4

# CRYING OUT FOR JUSTICE

CONFRONTING THE COST OF WAGE THEFT AND THE STRUGGLE FOR JUSTICE FOR MIGRANT WORKERS



MIGRANT FORUM  
  
by ASIA

 JUSTICE FOR WAGE THEFT

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*Migrant Forum in Asia (MFA) is a network of grassroots organizations, trade unions, faith-based groups, migrants and their families and individual advocates in Asia working together for social justice for migrant workers and members of their families. Since 1994, MFA has thrived into a formidable migrants' rights advocacy network in Asia with significant influence on other networks and processes on the globe. To date, membership of MFA in the region is close to 260, and growing each year.*

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## Background

The Justice for Wage Theft Campaign, now entering its fourth year, has been a steadfast response to the pervasive and enduring issue of wage theft that continues to afflict workers globally. Launched in recognition of the fundamental principle that every migrant must be justly compensated the due salaries and benefits owed to them urgently and without delay, the campaign has tirelessly worked to confront the systemic challenges that allow for this to persist.

Despite the seismic shifts brought about by the global pandemic, which prompted a reevaluation of labor dynamics and practices, wage theft remains an urgent and grave concern. The world has gradually opened up, but the persistent and widespread nature of wage theft underscores the need for sustained advocacy and collective action that will bring urgent justice to the adversity migrant workers have been confronted with through wage theft.

Wage theft takes multifaceted forms, severely impacting workers across various sectors and demographics. From unpaid overtime to deceptive contractual arrangements, it erodes the rights of workers and contributes to cycles of poverty and inequality. The campaign, a joint initiative of civil society organizations, trade unions, legal advocates, and more aims to shine a spotlight on this pervasive issue.



Central to the campaign's ethos is an acknowledgement of the intersectionality of wage theft, recognizing its disproportionate impact on marginalized communities such as migrants, women, and low-income workers. With this understanding, the campaign employs a range of strategies, including legal advocacy, awareness campaigns, and grassroots mobilization to address the unique challenges faced by different groups in accessing justice and immediate legal remedy.

As the Justice for Wage Theft Campaign enters its fourth year, it redoubles its commitment to holding stakeholders accountable for the rightful compensation owed to workers. It advocates for the implementation of robust justice and protective mechanisms ensuring that every worker, especially migrants, receives the remuneration they are rightfully entitled to and for which they have worked tirelessly for. Through strategic partnerships and a growing coalition, the campaign envisions a world where every worker is treated with dignity and is shielded from the scourge of wage theft.

## Milestones

In the ever-evolving landscape of migrant workers' rights, the Justice for Wage Theft Campaign has emerged as a powerful force advocating for justice. Over the past year, the campaign has not only gained momentum within our network but has also expanded its influence globally. This report delves into the notable achievements and significant developments that have marked the campaign's journey, showcasing a collective effort to address the persistent issue of wage theft.

### *Wage Theft in the IMRF Progress Declaration*

A significant milestone was achieved during the first **International Migration Review Forum**, which reviews the progress on the Global Compact on Safe, Orderly, and Regular Migration. In the IMRF, the term "wage theft" gained official recognition, finding mention twice in the IMRF Progress Declaration. This milestone is particularly significant given the historical challenges and pushback encountered by various UN institutions in embracing this term. Its increased inclusion in official discourse signifies a notable shift, indicating a growing acknowledgment of the gravity of wage theft in international conversations. This recognition not only reflects evolving perspectives but also underscores the urgency of addressing wage theft as a critical issue on the global agenda.

*We commend the positive role and contributions of millions of migrants in responding to and recovering from the coronavirus disease (COVID-19) pandemic, including as essential workers, and remain deeply concerned that the pandemic has had a severe and disproportionate impact on migrants, including through increased COVID-19 exposure, discrimination, violence, job losses, wage theft, protracted family separation, and restricted or lack of access to health-care services and other basic services, including vaccines, social protection, education and child services, and being subjected to unsafe and undignified returns.<sup>[1]</sup>*

*The lack of mutual recognition of skills and qualifications of migrants limits their potential, the benefits they can gain from their labour as well as their contributions to sustainable development, and leaves migrants vulnerable to exploitation. Many migrant workers, especially women migrant workers, continue to face precarious working conditions, wage theft, labour exploitation, reduced wages, discriminatory dismissals, withholding of benefits, forced unpaid leave and protracted separation from their families, which have been exacerbated during the COVID-19 pandemic. In many cases, migration procedures lack predictability and allow for high levels of undue discretionary action, undermining the rule of law and due process.<sup>[2]</sup>*

[1] General Assembly resolution 76/266, Progress Declaration of the International Migration Review Forum, par. 8, A/RES/67/97 (14 June 2022), available from [undocs.org/en/A/RES/76/266](https://undocs.org/en/A/RES/76/266)

[2] General Assembly resolution 76/266, Progress Declaration of the International Migration Review Forum, par. 28, A/RES/67/97 (14 June 2022), available from [undocs.org/en/A/RES/76/266](https://undocs.org/en/A/RES/76/266)

# Milestones

## Conference on Access to Justice

A pivotal moment in the campaign's journey occurred in October 2022 during the inaugural Access to Justice Conference. This multistakeholder dialogue brought together diverse voices, including lawyers, case workers, civil society representatives, trade unions, government officials, and UN organizations. The challenges highlighted—such as false charges, difficulties in compensation post-death, prolonged resolution times for wage reclamation, homelessness, and power imbalances in systems like kafala—were robustly discussed during the conference.

The dialogue that unfolded during the recent meetings builds upon the progress made since that initial conference. The primary focus was an in-depth review and analysis of justice systems and mechanisms in different countries, spanning from the origin to the destination of migrant workers. A presentation of possible models to address wage theft was shown, and these insights were enriched by examining the journeys of migrant workers as they pursued justice.

Among the key recommendations emerging from this dialogue was a call for social protection for all migrant workers. This recommendation reflects a crucial step forward in ensuring the well-being and rights of migrant workers globally. The emphasis on social protection signifies a collective understanding of the need for comprehensive frameworks that go beyond immediate legal remedies to address the systemic challenges contributing to wage theft.



## *UN General Assembly Side Event*

In the early stages of the campaign, awareness raising with key stakeholders was crucial as its first steps - the recognition of wage theft as a persisting global issue, especially among governments, where the concept of wage theft was hardly acknowledged in the realm of labour migration. The impact of the campaign went beyond dialogue and recommendations. It prompted the governments of the Philippines, Bangladesh, and Sri Lanka to commit to taking concrete action. These governments recognized the urgency of addressing wage theft and organized a high-profile side event at the UN General Assembly, **“Forum on Strengthening Migrant Protection: Addressing Wage Theft Against Migrant Workers During the COVID-19 Pandemic.”** This event aimed to delve into the complexities of wage theft and explore potential solutions. The active participation of these governments on such a global stage underscores their commitment to finding collaborative and impactful solutions to the pervasive issue of wage theft affecting their migrant populations.

## *Colombo Process TAWG and IOM Engagement*

Following the Thematic Area Working Group meetings, a positive development was noted regarding IOM's increased attention to the issue of access to justice. This development reflects a step forward in addressing the multifaceted challenges surrounding justice for migrants. The growing acknowledgment of the urgency and significance of this matter within the broader discourse on migration is evident in the increased focus from IOM. The engagement of key stakeholders, including IOM, signifies a turning point in recognizing the interconnectedness of justice and migrant rights.

This was marked by a roundtable discussion on **“The Future of Remedy for Migrant Workers in Asia”** co-hosted with the Philippine Government and the IOM which looked at promising practices in the implementation of State and non-state-based grievance mechanisms across Asia. The discussions from this roundtable strengthened multi-stakeholder collaboration on the issue of access to justice, broadening the potential for more opportunities to engage and establish partnerships between stakeholders at a higher level to address the issue of wage theft.

Through a Knowledge Sharing Forum on Reintegration which was conducted back to back with the Colombo Process Thematic Area Working Group (TAWG) meeting in Colombo, Sri Lanka in December 2023, MFA as representative of civil society shared lessons learned on reintegration from the Southeast Asia region through the perspective of development lost due to wage theft against migrant workers, emphasizing how wage theft experienced by migrant workers not only impact their lives directly but also undermines the potential of origin countries to pursue development particularly for returning migrants.



## *The 54th Session of the Human Rights Council*

In addition to the high-level discussions organized, a panel discussion was held on the sidelines of the 54th Session of the Human Rights Council in 2023, focusing on "Promoting the Human Rights of Migrants by Addressing Wage Theft" held on the sidelines of the 54th Session of the Human Rights Council. The side event was co-sponsored by the Permanent Missions of El Salvador and Spain, the Office of the United Nations High Commissioner for Human Rights (OHCHR), and the International Organization for Migration (IOM).

It was an opportunity to bring the issue of wage theft to an international arena where wage theft could further be emphasized as a pressing global issue. States and relevant stakeholders recognized the shortcomings of cross-border justice mechanisms which played a significant role in migrant workers succumbing to extreme situations of forced labour. Through this dialogue, there was also an opportunity to leverage policy recommendations to critical stakeholders while promoting international cooperation that will advance a rights-based approach to access to justice.



The progress made in the fight against wage theft is marked by achievements on multiple fronts, from global forums to national engagements. The commitment of governments, the proactive role of UN agencies, and the continued collaboration of civil society organizations contribute to a growing momentum that holds promise for the realization of justice for all migrant workers. As we reflect on the journey from the Access to Justice Conference to the recent events, it is evident that collective efforts are making a tangible impact, and there is a shared commitment to addressing the complexities of wage theft. This report underscores not only the achievements of the past year but also the potential for sustained progress in advancing justice for migrant workers globally.

# Human Impact: The Real Cost of Wage Theft on Migrant Workers <sup>[3]</sup>

The data collected from the Justice for Wage Theft portal reveals a stark reality: wage theft remains a pervasive and pressing concern, impacting a significant number of workers globally. The data paints a comprehensive picture of the extent of this issue, encompassing both individual and group cases.



The sheer volume of reported cases, totaling 3,104, underscores the widespread prevalence of wage theft. These cases represent instances where workers have been deprived of their rightfully earned wages, reflecting a systemic challenge that demands urgent attention. The majority of cases, numbering 3,041, involve individual workers. Each of these cases represents a unique story of an employee who has faced wage theft, emphasizing the personal and often devastating impact on the lives of workers. While individual cases dominate, 63 cases involve groups of workers. This highlights that wage theft is not limited to isolated incidents but can affect entire groups of workers, amplifying the social and economic consequences of this injustice.

## TOTAL AMOUNT OF WAGES LOST

**\$ 23,545,151**

cases from  
JULY 2020  
to DEC 2023

The impact on migrant workers is severe, with an approximate loss of \$23,545,151. This substantial figure translates into not just financial losses but also diminished opportunities for migrant workers and their families striving for a better life. While the amount successfully recovered by migrants from this total figure has not been determined, it has been an apparent observation from ongoing case work that it has been a challenge to move forward urgently

cases from  
JULY 2022  
to DEC 2023

## AMOUNT OF WAGES LOST SINCE LAST UPDATE

**\$ 4,025,311**

with legal procedures given challenges with cross-border justice mechanisms. Sending the reclaimed wages to the migrant workers remains to be a challenge because a case takes an average of 2.5 years to be resolved. By that time, the migrant worker is already back in their home country.

These statistics collectively illuminate the urgent need for concerted efforts at various levels — from policy interventions to corporate responsibility — to curb the rampant instances of wage theft. The impact extends beyond numbers; it represents the livelihoods, well-being, and dignity of workers who deserve fair compensation for their labor. Addressing wage theft is not just a legal imperative; it is a moral obligation to ensure justice and equity in the realm of labor.

[3] Data retrieved from the Justice for Wage Theft case documentation based on submissions to its Violation Submission Form via <https://www.justiceforwagetheft.org>

## **Wage Theft and Development Loss**

As the world moves forward in building back better, it is pertinent to recognize how migrant workers' experience of wage theft has had a subsequent impact on development in more ways than one. The colossal amount that migrant workers lose in wages and benefits is equivalent to what is lost in reintegration, in remittances, and in economic development gained from migration overall. Considering the amount documented through the Justice for Wage Theft platform is only a small fraction of the total owed to migrants across the world, it can be inferred that there is also a significant loss of potential success stories of migrant workers - in entrepreneurship, social enterprises, and successful return and reintegration programs.

When migrant workers return empty-handed, without having been able to receive their wages and end-of-service benefits through years of service, countries of origin simultaneously bear the brunt of wage theft experienced by migrant workers as they return home. Migrant workers experience psychosocial impacts as a result of wage theft. As they return home, they are burdened with an increasing load of problems they need to figure out solutions to as a result of being unpaid their dues and salaries. Instead of looking forward to coming home to their families, they are burdened to deal with issues such as unpaid debt, unemployment, and especially the survival of their families while dealing with the uncertainty of their livelihood. Countries of origin in this respect bear the costs manifested by the psychosocial impacts which migrants experience - specifically in the form of social protection needed to support migrants upon their return.

***Let's not make the mistake by equating wage theft with the pandemic because wage theft was there before the pandemic. The pandemic only amplified these problems because employers chose to use the pandemic as an excuse to not pay wages and benefits to migrants.***

**Sumitha Shaanthini Kishna, Chairperson of the Executive Committee, Migrant Forum in Asia**  
**at the UN General Assembly Side Event, "Strengthening Migrant Protection: Addressing Wage Theft Against Migrant Workers During the COVID-19 Pandemic"**

While countries of origin attempt to manage the consequences of wage theft to their migrants, countries of destination continue to reap the benefits of the service and hard work of migrant workers and its resulting contribution to the economic growth of countries of destination. From this perspective, migrant workers are subsidizing the development of countries of destination. There is an increasing disconnect between countries of origin and destination as the amount of wages lost in the growing cases of wage theft continues to be unknown and unaccounted for.

Without the sense of accountability from states, there is also a sense of justice that is missing for migrants as they step into their lives after migration. There is a need for countries of origin and destination to step up in partnership and collaboration to leverage access to justice for migrants while forming a linkage with sustainable and inclusive reintegration. A framework must be developed to identify co-responsibility between states

to ensure that migration is a development practice that is accountable for all migrant workers, irrespective of status. This includes low-wage migrant workers, especially women migrant workers, who may have less access to formal channels of support due to the nature of those who work in the domestic sector. Situations of wage theft tend to become more difficult in the case of female domestic workers as these experiences are usually coupled with other forms of rights violations which prevent them from seeking justice in the first place - particularly verbal and physical abuse, deprivation of basic needs such as food or of access to services such as basic healthcare or treatment.

It has been long overdue for states to stop looking past migrant workers in precarious situations and have been disadvantaged by their employers. To provide access to justice for migrant workers is to require duty bearers to recognize workers beyond status. This will also further allow states to likewise look into an evidence-based approach that will determine the approximate amount that is lost by migrant workers due to wage theft.



*In the end, we should recognize that repatriation is a sign of the failure of access to justice. It is also a failure of SDG 16, of social inclusion: migrants will always remain the other in the repatriation story, and they can never be one of us in the destination country.*

**WILLIAM GOIS, Regional Coordinator  
Migrant Forum in Asia (MFA)**

*at "The Future of Remedy for Migrant  
Workers in Asia"*

This will not only allow stakeholders to better strategize around what migrant workers need in terms of robust cross-border justice mechanisms that will allow them to claim their dues, but it will also calculate the added costs which countries of origin are shouldering for migration governance which need to be accounted for by countries of destination.

As cases of wage theft against migrant workers continue to be left behind due to failing justice mechanisms, the potential for sustainable reintegration will continue to diminish. The potential for migrant workers to maximize the gained skills and knowledge from their experience in the country of destination is lost along the way as the impacts of wage theft take away their potential to achieve levels of growth or success upon their return. Migrants must be empowered with the assurance that they will not only be able to save what they have earned but with the guarantee that they will be able to bring home what they have earned. However, without this guarantee of even being able to receive what they have earned, migrants will continue to contribute to the economic growth of countries of destination. They will continue to subsidize this growth without achieving any sense of justice for themselves and will only continue to be demoralized by the systems that have failed them. As such, states and key stakeholders must come together in urgency to not only bring justice and empowerment to migrant workers but to also address the growing loss in development due to the impacts of wage theft. This loss is indicative of an inherently dysfunctional migration governance framework that needs to be overhauled into one that is inclusive, sustainable, rights-based, and just.

# **Navigating the Path Forward: Recommendations for Comprehensive Solutions to Wage Theft**

Over the past year, a series of conferences and conversations have yielded crucial outcomes and recommendations, charting a course toward addressing wage theft comprehensively.

## ***The Importance of Cross-border Collaboration of Lawyers*** <sup>[4]</sup>

Cross-border collaboration among lawyers in both countries of origin and destination is crucial in addressing wage theft cases involving migrant workers. This collaboration enhances the effectiveness of legal remedies and ensures a more comprehensive approach to protecting the rights of migrant workers. In cases of wage theft, lawyers from the country of origin can provide valuable assistance by helping workers understand their rights, navigate legal processes, and gather necessary documentation. They can also collaborate with legal aid organizations/bar associations to offer support services, ensuring that migrant workers have access to proper legal representation. On the other hand, lawyers in the countries of destination play a pivotal role in pursuing legal action against employers who committed wage theft. This may involve filing lawsuits, pursuing collective actions, or engaging in advocacy to strengthen labor protections. Cross-border collaboration allows for the seamless exchange of information, evidence, and legal strategies between legal professionals in both locations. This ensures that even if a migrant worker decides to return home, claims and cases can still be pursued. Moreover, collaboration enables lawyers to address challenges arising from differences in legal systems, language barriers, and jurisdictional complexities.



## **AREAS OF CROSS-BORDER COLLABORATION BETWEEN LEGAL PRACTITIONERS IN BOTH COUNTRIES OF ORIGIN AND COUNTRIES OF DESTINATION**

### **1. Gathering of evidence**

1.1 Preparation of sworn and authenticated affidavits: Legal professionals in both countries work together to assist in the creation of detailed affidavits, ensuring they are properly authenticated for use in legal proceedings.

1.2 Compilation of medical certificates/records: Collaborative efforts to gather comprehensive medical evidence, including certificates and records, to substantiate claims and support the case effectively.

[4] Session of Atty. Henry Rojas of Lawyers Beyond Borders, entitled "Sub-Regional Consultation on the role of Cross-Border Litigation and Referral in Migrant Workers' Rights Advocacy" during the Asia Pro Bono Conference last December 2, 2023 in Cebu, Philippines.

1.3 Securing copies of police/immigration/labor/court records/files: Coordination in obtaining official records from relevant authorities in both countries to strengthen the evidence.

1.4 Handling documents in an unofficial language: Joint efforts to manage documents in languages that can be understood, emphasizing the importance of timely translations to prevent disruptions during legal proceedings.

## **2. Notarization and Authentication of documents**

2.1 Authentication of documents issued outside the country and authentication of public documents: Collaborative processes to authenticate documents issued abroad and ensure the validity of public documents in both jurisdictions.

2.2 Assistance with the notarization and authentication process: Joint efforts to assist in the notarization and authentication of documents issued within the country, exploring possibilities for proxy submission by authorized individuals.



**3. Coordination for cross-border depositions or examinations of witnesses: Legal professionals work together to facilitate the questioning of witnesses across borders, adhering to legal protocols and ensuring the testimony's relevance and admissibility.**

**4. Collaborative efforts in presenting and validating proof of foreign laws and official records: Legal practitioners cooperate to navigate the complexities of presenting evidence related to foreign laws and official records, involving legal research and potentially expert testimony.**

**5. Enforcement of foreign judgment: Legal professionals collaborate to develop a strategic approach for the recognition and enforcement of foreign judgments, addressing any legal intricacies that may arise and ensuring compliance with the laws of both countries.**

Considering the challenges and the fact that the numbers of lawyers undertaking legal work focusing on migration issues are being outnumbered by the cases of abused migrant workers, cross-border litigation emerges as a valuable tool. By working together, legal experts can develop strategies that transcend borders, creating a more robust framework for holding unscrupulous employers accountable for wage theft.

## *The Importance of Robust and Accessible Mechanisms for the Protection of Migrant Workers* <sup>[5]</sup>

The primary appeal of the Justice for Wage Theft campaign calls for an urgent justice mechanism for migrant workers that is expedited, accessible, affordable, and efficient. Thus, major efforts with key stakeholders focus on establishing robust mechanisms which will address labour disputes through strict accountability measures as well as just and transparent procedures which prioritize justice for the migrants. Recommendations from stakeholder discussions include the establishment of an Asia Dashboard for Monitoring Wage Theft, a visionary initiative to consolidate and track cases across the region. There is also a resounding call for a Global Legally Binding Treaty, echoing features of ILO conventions, to comprehensively tackle wage theft. The concept of an Asian Migrant Workers Tribunal was also raised, suggesting collaboration with pertinent bodies to address wage theft systematically. A pragmatic Asia-Level Grievance Redressal System is envisioned, linking to the Asia Dashboard and building on existing efforts.

Emphasizing collaboration, the active formation of partnerships with states, civil society organizations, and stakeholders continues to be championed. This includes bilateral and standard agreements, facilitating shared responsibility between countries of origin and destination. Apart from this, advocacy for the Employer Pays Principle continues, asserting that no worker, especially migrants, should bear the cost of securing employment. In addition, corporate responsibility and ethical recruitment are underscored, emphasizing the need for responsible and ethical recruitment practices. Social security for every migrant worker was another resounding proposal, suggesting universal coverage and arrangements for payments through embassies in the absence of other options. Amongst the recommendations also includes fast-track mechanisms for small claims, multilingual court proceedings, and committee-based labor dispute resolutions, seeking to replace regular courts with committees comprising diverse representatives. Furthermore, a fund for compensation in cases of employer refusal should be established.

To safeguard workers' rights, ensuring de facto access to justice through robust monitoring systems is needed, with a specific focus on migrant women workers and adherence to international human rights standards. These recommendations represent a concerted effort to address wage theft comprehensively and institute systemic changes for the protection of migrant workers.

***We need to make sure the workers are part of the solutions we're talking about. We can develop the best policies possible, but if they don't make sense for the people who need to apply them, if they are not mechanisms that migrant workers will use, we really haven't solved the problem.***

**MS. AMY POPE, Director-General of the International Organization for Migration (IOM)**

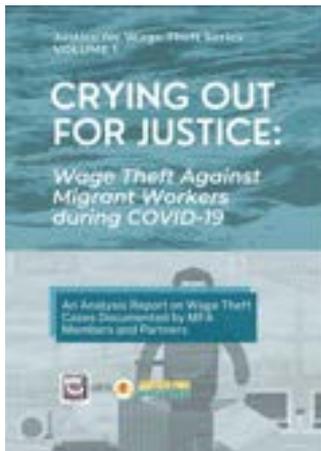
***at the UN General Assembly Side Event, "Strengthening Migrant Protection: Addressing Wage Theft Against Migrant Workers During the COVID-19 Pandemic"***

[5] Based on the outcomes of the Conference on Access to Justice last October 2-4, 2022 held in Kuala Lumpur, Malaysia.

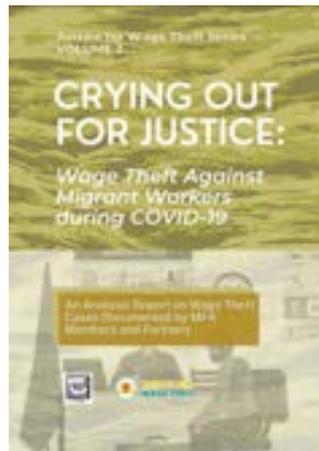


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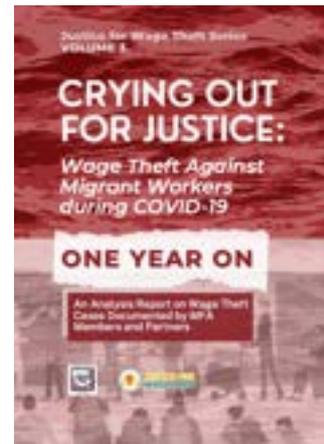
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Website: [justiceforwagetheft.org](https://justiceforwagetheft.org)

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Instagram: [instagram.com/justiceforwagetheft](https://instagram.com/justiceforwagetheft)

**SIGN THE  
PETITION!**

Join us in demanding our governments to act now, to respond to the need of migrant workers, and to establish justice systems that aim to address the large volume of wage theft justly and without delay!

**#SAYYESTOJUSTICE**

SIGN THE PETITION THROUGH THIS LINK:

[bit.ly/sayyes2justice](https://bit.ly/sayyes2justice)

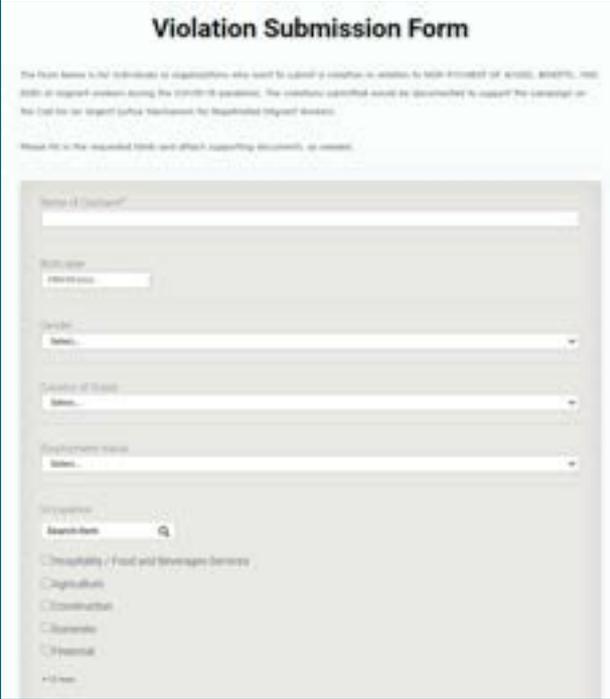


# JUSTICE FOR WAGE THEFT

**WOULD YOU LIKE TO SUBMIT  
A WAGE THEFT CASE?**

 [bit.ly/submitwagetheft](https://bit.ly/submitwagetheft)

The Justice for Wage Theft Violation Submission Form is a public form that can be accessed by anybody - may it be a case worker, civil society organization, lawyer, migrant worker or their family, and other concerned parties. All private information shall remain confidential and will be publicized only with consent of the submitting party.



The JFWT Violation Submission form is not for urgent/emergency cases. In order to receive immediate response for emergency cases, please contact concerned authorities or reach out to Migrant Forum in Asia for support through its channels.



**Migrant Forum in Asia (MFA)** is a network of grassroots organizations, trade unions, faith-based groups, migrants and their families and individual advocates in Asia working together for social justice for migrant workers and members of their families

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