



CALL FOR AN URGENT JUSTICE MECHANISM for Repatriated Migrant Workers

The COVID-19 pandemic has severely impacted millions of migrant workers in destination countries, many of whom have experienced job loss or non-payment of wages, been forced by employers to take unpaid leave or reduced wages, been confined in poor living conditions, and with little or no engagement in the work options before them. Many migrant workers also struggle with the dilemma of exercising their right to return in these circumstances, while others remain stranded in cities without access to services or support, or in border areas, living in precarious conditions posing as quarantine facilities.

Countries of destination and origin have begun repatriation procedures of these workers, without giving thought to their predicament and presenting the returns as inevitable. Millions will be repatriated to situations of debt bondage as they will be forced to pay off recruitment fees and costs, despite returning empty handed.

Under the above conditions, repatriation poses additional challenges, as, without proper controls, employers might take advantage of mass repatriation programs to terminate and return workers who have not been paid their due compensation, wages and benefits. Without ensuring that companies and employers are doing their due diligence to protect and fulfill the human rights and labour rights of repatriated migrant workers, states across the migration corridor become complicit in overseeing procedures where millions of workers will be returning without their earned wages or workplace grievances being heard, nor seeing justice in their situation.

This is a gross violation of labour rights on a large scale. Wage theft will account for millions of dollars to the detriment of workers and the benefit of businesses and employers who will be exempted from any accountability, even if states and banks extend a helpline to reestablish themselves and adjust to the new normal.

The repatriation procedures have been undertaken hastily by countries of both origin and destination, without any proper redress mechanism, since courts and other labour dispute mechanisms have also been closed during the period of the lockdown. Therefore, these violations will pile up and either not be addressed or overburden the existing dispute resolution mechanisms.

In this regard, Migrant Forum in Asia (MFA), Lawyers Beyond Borders (LBB) Network, Cross Regional Centre for Migrants and Refugees (CCRM), South Asia Trade Union Council (SARTUC), and Solidarity Center (SC) call upon countries of origin and destination to urgently put in place a transitional justice mechanism with the following objectives:

1. The transitional justice mechanism will address grievances, claims and labour disputes of repatriated workers who have lost their jobs as a result of the pandemic. That the mechanism needs to be expedited, accessible, affordable, and efficient.
2. It should be a priority to guarantee that all repatriated workers with legitimate claims are able to access justice and some kind of compensation.
3. While it must be of the utmost importance to ensure that cases are resolved as soon as possible, without delay, especially in cases involving labour disputes, safeguards must be put in place to ensure that migrants are able to pursue their cases post return. Access to legal advice and support, facilitating power of attorney procedures, and easing requirements for in-person testimony and court appearance or appearance in front of a tribunal/grievance mechanism are paramount.
4. States should require employers and businesses to keep all employment records, including payroll, employee lists, and hours worked and allow workers to take copies of their records with them.



If we are to 'Build Back Better', we cannot continue to turn a blind eye to the issue of wage theft that has been persistent across migration corridors for years, and will be unprecedented in the case of repatriated migrant workers in the COVID 19 pandemic.

Many migrant workers have reconciled to the situation of wage theft in the form of unfair or unpaid wages for months and years before the COVID 19 pandemic. They have accepted it as their fate and refrained from complaining lest they lose their jobs, or, worse still, live with the fear of being made undocumented.

Each year, millions of dollars are lost in potential remittances due to wage theft, even as countries of origin continue to explore new markets for deployment of migrant workers while countries of destination thrive on cheap and exploitable migrant labour.

Repatriation of migrant workers without due diligence by states in the time of the COVID 19 pandemic will only serve to leave unattended the injustices that migrant workers bear, exonerate employers and perpetrators of violence against migrant workers, and wipe away all records of legitimate claims and grievances.

The millions who are and will be repatriated will impact the development trajectory of families for whom a single migrant worker is a source of hope for a better future for generations to come. This dream, this resilience of the migrant's journey must not be stifled as the COVID 19 pandemic runs its course.

If unaddressed at this time, we run the risk of forever delinking the patterns that connect migration to development, as the stories of the lives of migrant workers will bear witness to this mass injustice for years to come.



**LAWYERS
BEYOND
BORDERS**



ENDORSED BY:

Building and Wood Workers International (BWI) Asia Pacific
Civil Society Action Committee (AC)
Equidem
Equidem Nepal
Human Rights Watch
International Trade Union Confederation (ITUC)
Migrant-Rights.Org
Public Services International (PSI)