

WOES OF RETURN:

Study on Wage Theft among Kerala Migrant Workers in GCC Countries

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1. Background

COVID-19 pandemic has been taking a heavy toll on migrant workers in countries of destination by exposing them further into situations of exploitation. Many employers took advantage of this situation, and the panic created among migrant workers led to gruesome rights violation. This mainly occurred in the form of terminating workers without notice, withholding wages and service benefits, unlawful deduction of wages, unpaid leave and, in worse cases, abandoning workers, on the top of all. This kind of unlawful deduction—rightly called as ‘wage theft’—has become an additional burden for migrant workers even as the whole world is fighting the pandemic.

The return of Kerala migrant workers in large numbers began with the Vande Bharath Mission for repatriating Indians stranded abroad as a result of global pandemic. It was during this time that the Centre

for Indian Migrant Studies (CIMS) conducted a repatriation survey among the migrant workers from Kerala who had returned or remained stranded abroad due to pandemic and lockdown. The objective of the study was to understand their working conditions during this period. The survey, conducted with framed questions, brought to light shocking revelations about the strenuous life most migrant workers had to live through. Termination from work without paying service benefits or wages, unpaid leaves, deduction of monthly wages etc. were reported the most. Unpaid wages and dues have been a common issue faced by migrant workers over the years. But the repatriation survey gave the hint that this kind of unlawful deduction has grown multifold. It is unlawful, hence it can rightly be called as ‘wage theft.’ The issue of wage theft increased when the governments in the Gulf Cooperation Council (GCC) countries allowed businesses who were economically suffering to terminate or reduce the salaries of workers after discussing with them. But this was taken as an opportunity by various employers for their benefit. Though the practice of withholding salary and service benefits had existed before, cases of it reported during the pandemic period have multiplied.

A large coalition of civil society organizations and trade unions launched the Justice for Wage Theft Campaign with an appeal on governments to establish an urgent justice mechanism that addresses the plight of migrant workers whose wages have been unjustly withheld by their employers. According to the Migrant forum in Asia, wage theft consists of the total or partial non-payment of a worker's remuneration, earned through the provision of labour services, as stipulated in a written or non-written employment contract. It also



includes the payment of salaries below the minimum wage, non-payment of overtime, non-payment of contractually owed benefits, the non-negotiated reduction of salaries as well as the retention of dues upon one's contract termination.

With the above-mentioned pilot study in mind, CIMS along with stakeholders who are committed to migrant rights decided to conduct a survey to study wage theft among Indian migrant workers. Advocacy without evidence doesn't turn many heads, especially while accusing perpetrators of theft. As part of the survey, we decided to collect supporting evidence to prove this massive injustice happening in the backdrop of the global pandemic. This report consolidates the major findings revealed from the survey conducted among 397 Kerala migrant workers. The objective of this report is to bring out the alarming situation of wage theft among Kerala migrant workers in the GCC countries, thereby bringing out the precarious situation that the state of Kerala is going to face, if justice is denied to these workers. If unaddressed, this phenomenon will have large socio-economic implication for returnee migrant workers and huge remittance loss for the state of Kerala.

2. Existing Justice Mechanisms for Migrant Workers from India

The existing justice filing mechanism for Indian workers abroad to record their grievances is the Consular Services Management System (MADAD) by the Indian Ministry of External Affairs (MEA). Returnee workers have the option to file case in country of destination after issuing a Power of Attorney (POA) to the MEA and avail the service of a lawyer appointed by the same. The benefit of using this

option, rather than consulting a private lawyer, is that the MEA is a government body that can be held accountable in case of any mishaps. A petition was filed by Adv. Subhash Chandran K.R representing Lawyers Beyond Borders (LBB) in the High Court of Kerala questioning the effectiveness of existing grievance filing mechanisms for Indian migrants working abroad with the Union and Kerala governments as opposing parties. The Central and State governments responded to the court that existing mechanisms were competent enough to address grievances of this nature.

3. Wage Theft Among Kerala Migrant Workers in GCC Countries During COVID-19 Pandemic: Survey Results from CIMS Wage Theft Survey

COVID-19 Inward-Outward status of Non Resident Keralites published by the NORKA Roots states that a total of 15,36,278 migrant workers returned until 15 July 2021 since the outbreak of the pandemic. The data stated that 10,98,334 Non Resident Keralites had reported reason for return as loss of job. These figures throw light on the serious socio-economic implications awaiting returnees who have come back empty handed and for the families that are dependent on them and to the state of Kerala.

The CIMS wage theft survey was conducted among 3345 migrant workers who are largely returnees and those stranded abroad after being abandoned by employers. Out of the total respondents, 11 per cent (397) migrant workers from the state of Kerala reported wage



theft along with supporting documents. Additional 53 respondents confirmed that their wages have been unlawfully denied but insisted on not being a part of this survey as they have no hope in availing justice or recovery of pending dues. These migrant workers were not included in the survey as they were not willing to share further information. Among the Kerala migrant workers who reported issue of wage theft, 90 per cent belong to construction sector, 2 per cent in manufacturing, 2 per cent in transportation and 2.5 per cent comprising of other sectors such as domestic work, retail and medical. One of the major challenges faced by us during the survey was the difficulty in accessing women migrant workers to document their experience with wage theft. At present, the survey results include only 5 women workers and rest of them are male.

3.1 Access to Justice: A Hope Unfulfilled

Wage theft has existed long before COVID-19 pandemic but various diaspora organizations and lawyers in GCC countries stated that there has been an increase in wage theft cases as a result of the pandemic. It was revealed during the survey that only 9 respondents among 397 were aware of the legal measures they could avail to claim unpaid dues and wages after return to the country of origin. Access to justice for unpaid dues in the country of destination was known among all respondents, but their opportunity to access these mechanisms were found to be dependent on a workers' socio-economic privileges. Migrant workers who have already lost jobs and are living with whatever little savings they made in country of destination often finds it difficult to file cases as transferring POA to a lawyer and

transcribing documents costs them close to a minimum of INR15,000. This is a very high amount for an ordinary worker who is already suffering from economic crisis due to wage theft.

Many of the migrant workers who participated in our survey were sent back to India in a hurry with the promise that their pending dues would be credited to Indian accounts or abandoned in destination countries by employers. This has prevented majority of them from accessing justice mechanisms available in the countries of destination. It was also found that many migrant workers were afraid to report and go forward with legal action as they feared it might affect their chances for getting a job abroad in future. There might be several factors that shape an individual to behave this way but when a migrant worker behaves this way, it is because they are ignorant about their rights and because of their lack of trust in law enforcement agencies.

Along with the survey, CIMS has also been filing cases of grievance in MADAD portal since August 2020. Unfortunately, none of the cases were resolved in a way that the worker receives justice for wage theft. None of the returnees were able to file a case through the MEA or generate a power of attorney for the same purpose due to unprecedented delay from the side of Indian missions abroad in addressing this issue. Justice delayed is justice denied, especially for migrant workers returning from GCC countries which prevents workers from filing a case after a time period of one year.



3.2 Remittance Loss for the State of Kerala

According to [The World Migration Report 2020](#), India is the largest country of origin with 17.5 million international migrants and a receiver of remittances amounting to USD 78.6 billion. The [World bank data](#) states that migrant remittance inflows were USD 83,332 million in 2019 and dropped to USD 83,149 million. Kerala, the southernmost state, accounts for the largest share of India's total remittances (Reserve Bank of India 2018). At present, 2.4 million Non-Resident Keralites send as much as 15 billion dollars annually to their homes, which is more than a quarter of Kerala's State Gross Domestic Product and 1.4 times more than the internal revenue income of the government, according to the [Kerala State Planning Board](#). Much literature has been published and debated on the Kerala 'model' of development and the positive effects of remittance on Kerala's high Human Development Index and per capita income (Dreze and Sen 1995). Because of the predominantly individual, family and community character of migration (De Hass 2010), remittances in Kerala have largely influenced local development. Household consumption of remittance is a major strength of Kerala economy, and that is why large numbers of migrant workers returning emptyhanded causes an alarming situation for Kerala.

An estimate on the remittance lost to the state of Kerala as a result of wage theft had also been carried out as part of the survey. CIMS conducted the survey among 3345 migrant workers out of which 397

individuals (11.86 %) reported wage theft. Majority of the respondents were returnees and some of them were stranded abroad, waiting for justice. Based on the analysis of data collected from each victim, it was found that an amount of INR 625873366 (USD 8427001) has been denied to 397 returnees due to wage theft. Based on this result, each worker has been denied INR 1576507 (USD 21226) on an average.

While applying this survey result to the data collected by NORKA Roots Department, we can estimate that 11.86 per cent (1,30,262) among 10,98,334 returnees who reported loss of job are likely to be victims of wage theft. Even if we were to consider one lakh rupees denied due to wage theft for each of these 1,30,262 likely victims, it would be a very large amount of remittance lost for the migrant workers and the state of Kerala. With this report, as a preliminary study, it is requested that the Kerala Government initiate a survey among returnee migrant workers to identify victims of wage theft. Immediate attention should be paid to timely access of justice mechanisms as certain GCC countries refrain workers from filing labour complaints after a period of one year. Due to COVID-19 pandemic and its implications, returnees are unable to find opportunities to remigrate or find new job within Kerala. Many of the workers who returned emptyhanded are above 50 years of age and have limited opportunities to remigrate or to start an enterprise of their own. The [Draft Emigration Bill 2021](#) places responsibility of rehabilitation on state governments which increases fiscal burden on Kerala. The psychological trauma as a result of wage theft and



systemic oppression received during service period was visible during in depth interviews conducted with all 397 workers. Some of them have lost hope after not receiving any updates regarding their MADAD grievance and some of them are still knocking all doors for justice because their life forward depends on this money.

3.2.1 Closer Look into Group and Individual Wage Theft Cases

Group Cases (Number of Workers)	Estimated Wage Theft Amount (INR)
Nassar S Al Hajri Corporation, KSA (230)	16,46,43,745
Equipments Company, Kuwait (7)	47,64,760
Mushrif, Kuwait (13)	3,06,89,392
Surface Solutions, UAE (6)	16,16,748
Karafi National, Kuwait (80)	35,62,12,800
Leighton, Qatar (30)	3,37,26,000
Alumco, UAE (13)	2,52,48,471

The total amount of wage theft reported in group cases among Kerala migrant workers in GCC countries is 616901916 INR (8303969 USD). Victims of wage theft in group cases and those with longer service period have been subjected to grater discrimination and rights violation.

A construction company in Saudi Arabia called Nassar S Al Hajri Corporation (NSH) accounts for the maximum number of wage theft

cases reported by workers in a group. A Mason with 23 years of experience narrates his story as follows:

Work experience at NSH was brutal and the behaviour of management staff at construction sites was inhumane. The company used to get signature from us on blank white papers and Arabic typed papers during time of joining and before every leave. Workers could go on leave only if we provided a colleague as assurance for return or only after depositing the ticket and Iqama processing fee. Majority workers wanted to leave the company due to low wages and this was how NSH made sure we returned. If unreturned the money will be deducted from colleague's salary. Most of us worked so far only with the hope that we will get a good amount as end of service benefits during retirement, but that hope was also shattered when the company sent us home without notice on chartered flights from the month of June 2020. Many more workers have been sent back and are unwilling to file a case out of fear and blind loyalty towards the owner. Majority of us are above 50 years of age. We were informed about flight on short notice and management staff said we will get tickets only if we sign all papers they gave without question. It was verbally conveyed during that time that service benefits will be credited to our Indian account within a month, but no money came. Upon multiple attempts to contact NSH, we came to know from HR Manager that the employees terminated during pandemic will not be given service benefits. We tried protesting against the prominent Kerala based billionaire because of whom majority of us got recruited but he abandoned us by saying he cut ties with the company in 2016. We were even arrested by Kerala police on our way to stage a protest at Kerala Secretariate and harassed by under false accusations by this billionaire and his relatives who are still employees of this firm. We



have filed a MADAD complaint on September 2020 through CIMS and have been working day and night knocking doors for an opportunity to file case to claim our benefits. Our situation is getting terrible as each day passes by without any response from the Indian Embassy at Riyadh as we are able to file case only within a year of incident.

The employees of this company were not aware of their service benefits amount and CIMS used End of Service Rewards Calculator by the Saudi Ministry of Human Resource and Social Development to calculate pending dues.

No returnees among this group were able to issue POA and file a case to claim unpaid wages and service benefits with assistance from the MEA even after filing MADAD grievance.

Individual Cases	Total Wage Theft Amount Estimated
20	INR 89,71,450

The total amount of wage theft reported among individual migrant workers in GCC countries amounts to USD1,20,730. Highest amount of wage theft reported by a returnee migrant worker from UAE among this group is INR 19,26,217 (1626 USD). No returnee among this 20 were able to file a case after return through assistance from the MEA.

3.3 Justice from Indian Perpetrators

One of the most shocking revelations found during the survey was the existence of Indian citizens as perpetrators in the country of destination. 60 per cent of the respondents among 397 workers had to face wage theft as a result of perpetrators with Indian citizenship running companies in various GCC countries.

Wage theft case reported by 6 Kerala migrant returnees of Surface Preparation Solutions & Technologies FZ LLC, UAE describes their experience as follows:

All 6 of us joined this firm through a mutual friend who used to work here. We used to get salary by hand and not always in full amount. We did not receive any salary after March 2020 and the Indian management cheated us by stopping all functions of the Company in UAE and abandoned us. We have worked until the month of July 2020 without salary under the promise that they will pay us once their bills are settled. We received no protection during lockdown and were asked to work continuously. We came to know towards July end that the company owners, who are from Uttar Pradesh in India left the country after dismantling the company. We were not given any kind of termination notice or such because of which it became difficult for us to find new job. We reached back India with financial help provided by Radio Asia in UAE.

The narratives shared by these migrant workers reveal gruesome stories of human rights violation over the period of their service. 7 workers who returned from Saudi Arabia had filed complaints at Kerala police for the atrocities done to them by the management staff



of NSH who are of Kerala origin. No action has been taken against them so far and the workers are unable to hold Indian employers accountable for their unpaid dues. All four women migrant workers who were part of the survey reported being cheated by either recruiting agents or colleagues of Indian origin.

4. Recommendations

Based on the survey conducted, CIMS recommended the following to the Government of Kerala and the Union Government:

- The existing data bank on returnee migrants should capture the victims of non-payment of wages and dues. Variables of wage theft should be considered during this analysis.
- The existing mechanism of issuing Power of Attorney to the Ministry of External Affairs for returnee migrant workers should be made accessible promptly as certain countries of destination allow workers to file case only within a year of incident.
- The state and central governments should take necessary steps to ensure that perpetrators of Indian origin are held accountable for their actions against an Indian citizen in countries of destination.
- Sign bilateral agreements with destination countries to address the issues of unpaid wages and other benefits. This should include negotiations on labour laws existing in countries such as Saudi Arabia and Kuwait which denies opportunity for legal options after a period of one year.
- India should ratify international conventions on labour standards and protection of migrant workers to ensure the welfare of all migrants.
- Indian missions abroad should make sure that returnee workers receive opportunity to file case before leaving country of destination.
- Establish mechanisms for coordination among government, sub-national migration governance bodies (etc. NORKA) and non-government stakeholders to address grievance related to migrants.
- Ensure quick and affordable legal services for Indian migrant workers and returnees.
- Draft Emigration Bill 2021 does not offer any provision for 'grievance redressal.' The bill shall include a separate section that contains clauses on grievance redressal in the chapter VII on 'welfare on Indian migrants.'
- The reintegration strategies for the returnees should consider the victims of wage theft favorably since most of them do not possess any economic capital for self-reintegration.
- The NORKA panel of lawyers shall provide free legal services for the cases related to non-payment of wages.
- The CSOs in the country shall gather more evidence on wage theft and use the information for better advocacy at the national and state level. Those evidence will help the governments to develop evidence-based policies.



References

- De Haas, Hein (2010): "Migration and Development: A Theoretical Perspective," *International Migration Review*, 44 (1), Spring: 227–264.
- Dreze, Jean and Amartya Sen (1995): *India: Economic Development and Social Opportunity*, Delhi: Oxford University Press.
- Reserve Bank of India (2018): *India's Inward Remittances Survey 2016-17*, New Delhi: Government of India.

Website Hyperlinks

- <https://www.mea.gov.in/vande-Bharat-mission-list-of-flights.htm>
- <https://justiceforwagetheft.org/>
- <https://justiceforwagetheft.org/entity/r61h53o2g4b?file=16182099513772uzshen8dzt.pdf&page=1>
- <https://portal1.madad.gov.in/AppConsular/welcomeLink>
- <https://indiankanoon.org/doc/59185938/>
- <https://norkaroots.org/>
- <https://www.thehindu.com/society/indian-migrant-workers-in-gulf-countries-are-returning-home-without-months-of-salary-owed-to-them/article32639165.ece>
- https://publications.iom.int/system/files/pdf/wmr_2020.pdf
- <https://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data>
- <https://spb.kerala.gov.in/economic-review/ER2020/>
- <https://mea.gov.in/emigrationbill.htm>
- <https://www.reuters.com/article/us-india-saudi-workers-trfn-idUSKBN2741PY>
- <https://laboreducation.mlsd.gov.sa/en/calculator>

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