



**WAGE THEFT AND
FORCED LABOUR AMONG
MIGRANT WORKERS IN
SOUTHEAST ASIA:**

**IMPACTS OF COVID-19
AND POLICY RESPONSES**





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EXECUTIVE SUMMARY

This study examines the linkages between wage theft and forced labour in labour migration within ASEAN, and the impacts of the COVID-19 pandemic on this phenomenon. The report seeks to provide an evidence base for policymakers on wage theft, and relatedly counter human trafficking and forced labour measures. The study was carried out in five countries in ASEAN- Thailand, Malaysia, Cambodia, Philippines and Indonesia- to capture experiences in both countries of destination and origin. Interviews were conducted with 451 migrant workers and further in-depth key informant interviews and focus group discussions with 140 respondents. The study also assesses the impact of the policies and practices of the government and non-government stakeholders in ASEAN during the COVID-19 pandemic on the indicators of forced labour and incidence of wage theft.

The findings of the research indicate a strong correlation between wage theft and migrant workers' experience of forced labour during the pandemic. 31% of respondents reported experiencing wage theft, among whom 46% were found to also have likely been in conditions of forced labour. The high incidence of wage theft worsened their working and living conditions during employment and upon return to their home countries. Vulnerability to wage theft and forced labour also appears to be influenced by factors such as irregularity in the migration process, a lack of effective protection or support mechanisms, lack of information provided to migrants, poor access to services, violation or absence of contracts, and lack of prioritisation of policies for migrant workers.

The policy interventions during the pandemic were largely not designed to protect migrant workers from forced labour and wage theft. While basic services such as access to health care and other emergency relief were provided, migrant workers lacked access to social protection, access to justice mechanisms and assistance to retrieve unpaid wages both in the countries of destination and origin.

The report contains recommendations for the consideration of policymakers at national and regional levels, that may help to address the incidence of wage theft and forced labour, and therefore the wellbeing of migrant workers in ASEAN. In brief, the recommendations are:

1. Develop or improve complaints mechanisms for migrant workers to seek justice, without fear of immigration enforcement, retaliation, detention, or deportation.
2. Increase access to information for migrant workers' rights protection, services provided by governments and others, including digital platforms.
3. Develop an ASEAN model standard labour contract to reduce the incidence of forced labour and related violations.
4. Support national and regional advocacy spaces to raise the linkage of wage theft and forced labour.
5. Implement a framework similar to the ILO's Fair Recruitment Guidelines to support improving recruitment practices by agents, brokers and those responsible for migrant worker policies¹.
6. Strengthen or establish platforms of cooperation for government and non-government stakeholders to coordinate in grievance redressal and ensuring retrieval of unpaid wages and other benefits.
7. Establish a forced labour referral mechanism in ASEAN, which includes missions, representatives of the destination country, NGOs and regional observers, to report, refer, and monitor forced labour activities.
8. Strengthen monitoring and reporting systems within diplomatic missions of countries of origin to document whether migrant workers are paid their due wages and benefits.
9. Establish a permanent transitional justice mechanism at regional ASEAN level to respond to cases of wage theft².
10. Establish or strengthen compensation funds for workers to receive unpaid wages and benefits, and related legal services, by both diplomatic missions of countries of origin and countries of destination.

¹ Progress towards this recommendation is already occurring in the region, yet may require stronger political will for implementation: https://www.ilo.org/asia/media-centre/news/WCMS_871125/lang--en/index.htm

² For more information on transitional justice, please see MFA's policy brief:

<https://justiceforwagetheft.org/api/files/1603521715531k3h85e5xrrio.pdf> and more background on transitional justice from OHCHR: <https://www.ohchr.org/en/transitional-justice>



GLOSSARY OF KEY TERMS

WAGE THEFT

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 includes the non-payment of contractually owed benefits, non-payment of overtime, underpayment below the minimum wage, the non-negotiated reduction of salaries as well as the retention of dues upon one's contract termination³.

TRAFFICKING IN PERSONS/HUMAN TRAFFICKING

All work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily⁴.

FORCED LABOUR

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs⁵.

IRREGULAR/UNDOCUMENTED MIGRANT

An irregular or undocumented migrant is someone who is not authorized to enter, to stay or to work in the country of destination. Migrants often have little control over the complex factors that determine their status, and they may slip into irregular status often due to administrative factors, often through no fault of their own.

³ <https://justiceforwagetheft.org/api/files/1603521715531k3h85e5xrrio.pdf>

⁴ <https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>

⁵ <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

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1. Background

Cross-border labour migration is an important aspect of social and economic life in Southeast Asia. Intra-regional migration, between ASEAN Member States, accounts for two-third of the total number of migrant workers in ASEAN with 7.1 million migrants⁶. The major countries of origin for intra-ASEAN migration are Myanmar, Indonesia, Malaysia, Lao PDR, Cambodia, and the Philippines. The main countries of destination are Thailand, Singapore, Malaysia, Brunei, and Indonesia (mainly in the fisheries sector). While Malaysia and Thailand are also countries of origin, both are net receiving countries due to the large inflow of migrant workers. Migrant workers are important actors in the economic development for both countries of origin and destination. Major industries of employment in destination countries include agriculture, construction, and manufacturing.

Both regular and irregular migration have been increasing in the region, similar to migration to other regions globally. Despite the efforts to address labour migration needs in the region through formal agreements, migrants in ASEAN countries experience a lack of access to regular and safe migration channels.⁷ Given the nature of the economies and demand for migrant workers, the ongoing significant presence of irregular migrants may be a necessary aspect of the labour migration system, rather than an anomaly, due to the related policies and practices in the region.

The International Labour Organization (ILO) estimates that more than 15 million people in the Asia Pacific are victims of forced labour, accounting for well over half of the global estimate of 27.5 million victims. That equates to 3.5 people in every 1000 people in Asia-Pacific being in forced labour, trapped in jobs into which they were coerced or deceived therefore, cannot leave⁸. Migrant workers are much more likely to be in forced labour than local workers, however most are not officially identified as victims of forced labour or human trafficking. Of all identified human trafficking victims in Southeast Asia, most are victims of sexual exploitation and only a third are trafficked for other forms of forced labour⁹. The scale of trafficking for forced labour is likely vastly under-reported due to the difficulty in identifying cases, and the lack of knowledge among responders of the characteristics of forced labour.

The growing demand for cheap labour acts as a driver for human trafficking and forced labour. It is most often found in domestic work, agriculture, construction, manufacturing, and entertainment sectors¹⁰. The most vulnerable migrant workers cannot repay exorbitant fees charged by brokers and recruiters, and become vulnerable to forced labour, debt bondage, and other forms of exploitation¹¹. Victims of forced labour often experience low wages, long working hours, poor working conditions, non-payment of salaries, workplace safety, and health issues, non-recognition of domestic work under labour laws, abuse and mistreatment in domestic work, and criminalisation and detention.

⁶ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_647658.pdf

⁷ <https://www.boell.de/en/2015/11/23/labour-migration-asean-region>


⁸ https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf

⁹ <https://theaseanpost.com/article/aseans-human-trafficking-woes>

¹⁰ https://www.ilo.org/asia/areas/forced-labour/WCMS_634534/lang--en/index.htm

https://imumi.org/attachments/26_1.pdf

¹¹ <https://www.boell.de/en/2015/11/23/labour-migration-asean-region>



Wage theft combines with other means of exploitation to create situations of forced labour. For example, many migrant workers are forced to take on debt to migrate and get their jobs, and some fall victim to a vicious cycle of debt created by exorbitant recruitment fees. As per established international human rights instruments, such as ILO Convention 95 on Protection of Wages, wage theft constitutes a labour rights' violation (Foley and Piper 2021). It persists due to the absence of cross-border justice in the labour migration governance system (Farbenblum et al., 2013). Wage theft is particularly prevalent in the informal economy in the region where many intra-ASEAN migrant workers are employed. The absence of social security provisions, monitoring and policies governing the informal sector often aggravate the impact of wage theft.

THE IMPACT OF COVID-19

Migrant workers were among the populations most severely impacted by the COVID-19 pandemic. Many lost their jobs, had wages unpaid, or were forced by employers to take unpaid leave or reduced wages, and were confined in poor living and working conditions. Most of these workers have few alternative employment options¹². The prevalence of human trafficking and forced labour in the ASEAN region may have both increased the propensity for and by, wage theft from migrant workers.

The lack of coherent policies related to labour migration, forced labour and wage theft, were exacerbated by COVID-19 in most of the ASEAN countries. While there is the ASEAN Convention against Trafficking in Persons, Especially Women and Children, the ASEAN Plan of Action against Trafficking in Persons and the ASEAN Consensus on the Promotion and Protection of Rights of Migrant Workers, in practice, the question of wage theft and its connection to forced labour remain unaddressed¹³. This results in many migrant workers experiencing forced labour and trafficking-like situations, through deception and coercion, without appropriate responses. The relationship between wage theft and forced labour has yet to be sufficiently established in law, policy or practice, and the evidence base remains nascent.

¹² http://mfasia.org/migrantforumasia/wp-content/uploads/2021/04/MFA_Crying-Out-for-Justice_04.12.pdf

¹³ <https://asean.org/wp-content/uploads/2021/01/ASEAN-Convention-Against-Trafficking-in-Persons-Especially-Women-and-Children-Plan.pdf>



2. Objectives

This research had the following two objectives:

1. To examine any linkages between wage theft and forced labour in intra-ASEAN migration, particularly in light of the COVID-19 pandemic.
2. To assess the impact of the policies and practices of government and non-government stakeholders in ASEAN during the COVID-19 pandemic on wage theft and other indicators of forced labour.

This study therefore looks at the impact of COVID-19 on migrant workers in selected ASEAN countries, and vulnerability to forced labour. It explores the, often unintended, impacts of government policies in response to COVID-19, specifically on migrant workers. This seeks to contribute to a broader understanding of trafficking for labour exploitation and the evidence base on the linkage between wage theft and forced labour. As part of the study, the research team engaged migrant workers directly and civil society members in MFA's network. The findings and recommendations from the study provide a foundation for engaging relevant government agencies and ASEAN regional bodies in dialogue to address the vulnerabilities of migrant workers to human trafficking and forced labour.

The study is offered to support government efforts and inform policymaking to counter human trafficking and forced labour in the region. The recommendations aim to inform policies in longer-term response to the socio-economic impacts of the COVID-19 pandemic and to "build back better"¹⁴ in relation to workers' rights and protection. Deepening the understanding of the forms of coercion and exploitation like wage theft that mainly affect migrant workers will also contribute to improvements in identifying victims of human trafficking among migrant worker populations.

¹⁴ <https://www.oecd.org/coronavirus/policy-responses/building-back-better-a-sustainable-resilient-recovery-after-covid-19-52b869f5/>

3. Research Methodology

The project used action research to gather data in response to the two objectives, and a mixed methods approach of both qualitative and quantitative data collection. A sequential explanatory research method was adopted that gives more weight to the initial quantitative data collection followed by qualitative data collection and analysis based on the quantitative data¹⁵. The questionnaire for the data collection was prepared based on an initial literature review and informal consultations with relevant stakeholders. The primary survey used closed questions for the preliminary quantitative data collection. The qualitative data was collected through key informant interviews (KII) and focus group discussions (FGD), primarily to capture the experiences and perspectives of migrant workers, and the policies and practices of stakeholders during the pandemic.

- **Primary survey among migrant workers¹⁶:** Respondents were identified through snowball sampling due to the lack of a sampling frame. The stratified sample ensured representation from various sectors of work, countries of origin in the region, and gender.
- **Key informant interviews and focus group discussion:** Based on the inferences from the quantitative survey, in-depth interviews were conducted with migrant workers, through MFA partners.¹⁷ This included documented and undocumented migrant workers in countries of destination (Thailand and Malaysia), and returned migrant workers from Indonesia, Cambodia, and the Philippines (repatriated workers and workers who returned home during the pandemic).
- **Four focus group discussions** were conducted with migrant workers or returnees, three in-person in Indonesia and one online in Malaysia, with the support of facilitators.

3.1 Limitations of the study

The study looks at the experiences of both regular and irregular migrants, critical as irregular migrants are an important part of the workforces in the region. As irregular migrants are undocumented it is not possible to have a sampling frame and therefore random sampling research methods were excluded. The research as a result is based on non-random sampling. Further, while efforts were made to ensure a diverse and representative sample, the mobility restrictions due to the pandemic limited data collectors' ability to make this broader. This was particularly notable in Thailand where the majority of respondents were from Myanmar and with similar work and livelihood profiles.

In spite of the limitations, the data collectors were able to achieve diversity in terms of gender, occupation, and other demographic characteristics more broadly.

¹⁵ <https://journals.sagepub.com/doi/abs/10.1177/1525822X05282260?journalCode=frnxd>

¹⁶ Snowball sampling is a non-probability sampling method where new units are recruited by other units to form part of the sample. Snowball sampling can be a useful way to conduct research about people with specific traits who might otherwise be difficult to identify

<https://research-methodology.net/sampling-in-primary-data-collection/snowball-sampling/>

¹⁷ Personal logs provide evidence of personal development, behaviour, thoughts and feelings. The structure can vary from unstructured or open-ended, where the respondent can write in their own words, to highly-structured tick-box questionnaires. https://www.ucl.ac.uk/culture/sites/culture/files/personal_logs.pdf

3.2 Data and sampling

Non-random sampling was used in the absence of a sampling frame and other barriers to implement random data collection. Researchers usually started with a small number of initial contacts who either reached out to organisations for assistance or were referred, fit the research criteria, and became participants. The consenting participants were then asked to recommend other potential participants who matched the research criteria and who then in turn recommended other potential participants, and so on. MFA representatives from the five selected countries conducted individual interviews with the migrant workers and government representatives. Based on the objectives of the study and the capacity of MFA's network in the ASEAN region, five countries were selected, with MFA partners being: Legal Support for Children and Women (LSCW) in Cambodia, Serikat Buruh Migran Indonesia in Indonesia, Our Journey in Malaysia, Center for Migrant Advocacy in the Philippines, and the Migrant Assistance Program (MAP) Foundation in Thailand.

- **Quantitative survey**

The quantitative survey conducted from November 2021 to June 2022 resulted in 451 participants from five countries, with the distribution as noted in Table 1.

Table 1: Number of respondents

COUNTRY	RESPONDENTS TO QUANTITATIVE SURVEY	RESPONDENTS TO QUALITATIVE INTERVIEWS
Malaysia	100	30
Indonesia	51	30
Philippines	100	30
Cambodia	100	20
Thailand	100	30

The survey aimed to collect data on the components of forced labour during the pandemic, with specific focus on elements of wage theft. Cross tabulations were conducted using the statistical analysis program, SPSS, to identify correlation between wage theft and indicators of forced labour.

- **Qualitative survey**

In-depth interviews and focus groups were conducted to elaborate on the perspectives of migrant workers on the vulnerabilities they faced during the pandemic, and the policies and practices of relevant stakeholders. This complemented and strengthened the quantitative survey data.

- ***In-depth personal interviews***

In-depth interviews aimed to capture migrants' individual experiences concerning forced labour and wage theft during the pandemic, with representation from different categories of migrant workers identified in the first phase, including:

- Victims of wage theft
- Relevant occupations
- Irregular workers (If any)
- Minimum of one worker from each country of origin/destination as per the quantitative sample
- Workers without contract
- Workers who managed to work during the pandemic
- Workers who managed to receive regular wages and other benefits during the pandemic.
- Workers who filed complaints (If any)
- Workers who received services/support from employers, government and CSOs during the pandemic
- Workers who successfully retrieved the lost wages
- A range of durations of the stay in the destination country

30 respondents were selected for in-depth interviews from each of the five countries. In total, the study conducted interviews with 150 individuals. Among these respondents, 90 were women. The breakdown of the gender distribution among the respondents is displayed in the table below:

Table 2: Gender of Respondents per Country

COUNTRY	MALE	FEMALE
Cambodia	17	13
Indonesia	13	17
Malaysia	10	20
Philippines	2	28
Thailand	18	12
Total	60	90

Table 3: Gender of Respondents per Country in Percentage

COUNTRY	MALE %	FEMALE %
Cambodia	52	48
Indonesia	44	56
Malaysia	43	57
Philippines	12	88
Thailand	52	48
Total	40.1	59.9

❖ **Focus group discussion**

These were limited to two countries representing one country of origin (Indonesia) and one country of destination (Malaysia), due to the pandemic restrictions. The interviews sought to verify data already collected and capture any gaps from the quantitative and qualitative surveys. The study involved conducting three Focus Group Discussions (FGDs), with two of them taking place in Indonesia and one being organized online for participants in Malaysia.

In Indonesia, the first FGD consisted of five male workers who had returned from Myanmar. The second FGD included six female domestic workers who had returned from Singapore and Malaysia. The online FGD in Malaysia comprised of migrant workers from the Philippines. Out of the eight participants, three were female workers.

4. Analytical framework

This study focuses on the intersection of wage theft and vulnerability to forced labour. Forced labour is defined in the ILO Forced Labour Convention, 1930 (No. 29) as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself [or herself] voluntarily” (Article 2(1)).

There are three elements required to meet this definition, being:

- (1) Work or service, which refers to any type of work, service, and employment, occurring in any activity, industry or sector, including in the informal economy.
- (2) Menace of any penalty, which refers to a wide range of means of coercion used to compel someone to perform work including (but not limited to) actual or credible threat of physical, psychological, or sexual violence, financial penalties, debt bondage, dismissal, and specifically in the case of migrant workers, arrest and/or deportation.
- (3) Involuntariness, which refers to workers not having given their free and informed consent to enter into an employment relationship and/or their inability to withdraw their consent at any time. Involuntariness can be brought about by the use of false promises made in recruitment, such that a worker accepts a job on false premises, but can also be down to physical confinement, including by withholding of identity documents¹⁸.

Forced labour indicators have also been developed by the International Labour Organisation (ILO)¹⁹ as a basis for identifying possible cases and these have been utilised for this study, being:

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime

The set of 11 indicators cover the main types of coercion in a forced labour situation. They may be seen as isolated labour violations; however, they are often used together and they should therefore be investigated where any given indicator is apparent. This may lead to more cases of labour violations being understood more holistically as forced labour.

¹⁸ For further details, please see: https://www.ilo.org/ilc/WCMS_089199/lang--en/index.htm

¹⁹ https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf

The study considers 'withholding of wages' as one of the components of the issue of wage theft, and defines wage theft as:



WAGE THEFT

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 verbal 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 (MFA, 2021a)

5. Survey findings

This section presents the overall findings at a multi-country level and then disaggregated by country, given the value in the overall findings for the region and the variation at national levels.

REGIONAL INCIDENCE OF FORCED LABOUR AND OTHER VULNERABILITIES DURING THE PANDEMIC

Among the 451 respondents surveyed during the primary field work, 53% reported that they lost their jobs during the pandemic. More than half of the workers therefore lost their income and were in likely need of assistance given pandemic-related policies. 13% of the workers stated that they received support from the government, of whom 26% received health support and 47% received free food rations. However, 9% of the workers did not receive adequate food during the lockdown. Therefore, despite some emergency support provided by governments and civil society, the proportion of workers who survived without adequate food was high.

As may be expected, 83% of the workers surveyed experienced mobility restrictions and 42% of the workers felt that the mobility restrictions prevented them from accessing various services. The restrictions likely prevented the workers from accessing complaint mechanisms and other services that could have addressed the incidents of forced labour.

Access to information was key during the pandemic. Among the total respondents, 96% of workers indicated that they received information and other updates during the lockdown and 49% of workers relied on social media for updates. The reliability of such information is however a major concern, and workers reported received misleading information, apart from that on mobility restrictions and health advisories.

Experience of wage theft was reported by 31% of the workers and 13% of the victims of wage theft filed a complaint. This indicates that most of the workers either could not access the complaint mechanisms or did not feel it was worthwhile for them given the lengthy procedure. Among the workers who filed complaints, only 20% managed to successfully resolve their grievances. Among the victims of wage theft, 18% experienced changes in working hours during the pandemic and 13% of these had increased working hours, many of whom were not adequately compensated.

Correlation between Wage Theft and Forced Labour

The data indicates a strong correlation between wage theft and other indicators of forced labour. Wage theft can act as a form of coercion that forces the worker to stay at the workplace in a vulnerable situation until the wages are, if ever, paid. Regular full income may empower workers to access various services and exercise their rights at the workplace. As per the survey guidelines to estimate forced labour, a combination of indicators can be used to detect forced labour.²⁰ A particular case can be identified as forced labour if a combination of indicators are present. In order to determine the correlation between wage theft and other forced labour indicators, several variables have been analysed to determine the existence of forced labour in this context.

The combination of the following forced labour indicators (of the 11 ILO indicators) was found to be most prominent in combination with wage theft, for the study:

- Physical and sexual violence, intimidation, and threats of violence
- Deception and retention of identity documents
- Abuse of vulnerability
- Abusive working and living conditions and mobility restrictions
- Mobility restrictions, physical and sexual violence
- Mobility restrictions and confiscation of identity and personal documents.

Among the respondents who were victims of wage theft (31%), 46% were found to have also experienced these other indicators and would therefore be very likely in conditions of forced labour. The study therefore finds there is likely to be a strong correlation between wage theft from migrant workers and their experience of forced labour. The next section offers deeper national level analysis.



TO ESTABLISH CORRELATION BETWEEN WAGE THEFT AND OTHER FORCED LABOUR INDICATORS

To determine the correlation between wage theft and other indicators of forced labour, the study identifies various combinations of these indicators, which are based on the living and working conditions of migrant workers during the pandemic. If at least one of these identified combinations is present among wage theft victims, it is considered likely a situation of forced labour among them. It is worth noting that even if a respondent exhibits multiple combinations of forced labour variables, the study does not analyse the number of these combinations separately.

Among the participants in the study, 31% (140 out of 451 respondents) reported experiencing wage theft. Among these wage theft victims, 46% (64 individuals out of 140) experienced at least one of the identified combinations of forced labour indicators. As a result, 14% of the total population (64 out of 451) demonstrated a positive correlation between wage theft and other forced labour indicators.

It is important to note that the presence of at least one of these identified combinations may only be indicative of potential forced labour situations.

²⁰ https://www.ilo.org/global/topics/forced-labour/publications/WCMS_105023/lang--en/index.htm



5.1 Cambodia

The incidence of wage theft among the sample is lesser compared to those from other countries studied. Among the victims of wage theft who returned to Cambodia, almost none received end-of-service benefits. The denial of promised wages for returnees was evident from the respondents. All of the respondents had returned from Thailand as the primary destination of Cambodian migrant workers. The strict restrictions in Thailand during the pandemic likely contributed to migrant workers' socio-economic vulnerabilities and worsened the incidence of forced labour and wage theft. None of the respondents however attempted to file a complaint against wage theft.

5.1.1 Profile of sample

As noted, all of the survey respondents had worked in Thailand, 48% were female and 52% male. 98% were returnees and 2% were still working in Thailand. 43% of respondents worked in construction, 20% in factory jobs and 14% on agricultural farms. One-third of the respondents were long-term migrants who spent six years or more in Thailand, while the further two-thirds had been in Thailand for two to four years.



Figure 1: Percentage of respondents according to gender

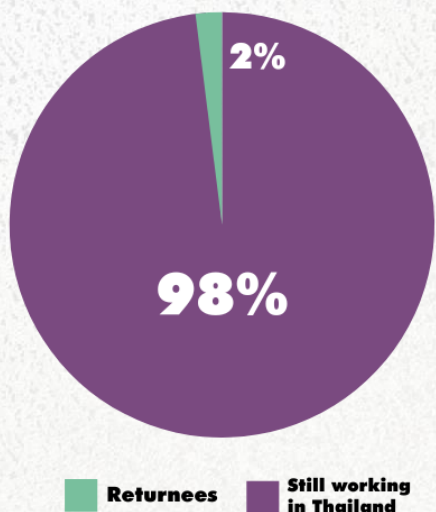


Figure 2: Percentage of respondents according to employment status

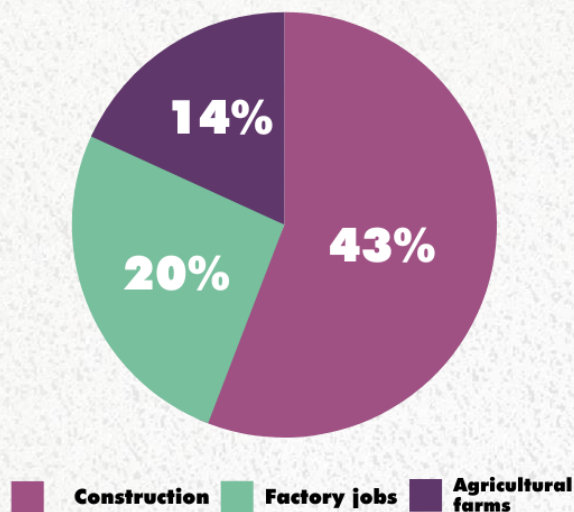


Figure 3: Percentage of respondents according to sector

5.1.2 Wage theft and other vulnerabilities to forced labour

- **Wage Theft**

The reported cases of wage theft by Cambodian returnee migrants were less than the other four countries, however **22% of respondents reported that they did not receive regular wages**. Many workers reported that they did not receive their dues and benefits, including:

- **78% who did not receive their leave salary**
- **96% who did not receive overtime pay**
- **95% did not receive end-of-service benefits**

Female migrants (83%) were found to be at more risk of wage theft than their male counterparts (71%). The majority of the grievances derived from the construction sector (90% of total grievances), and 41% of the workers in the construction sector did not receive regular wages and other dues.

A common type of wage theft experienced by the workers involved employers sending them back to Cambodia and promising to pay their wages there. When they returned to Cambodia however, most were not paid any wage. For example, respondents stated that:

“My employer forced me to go back to Cambodia, they arranged everything for me, however, they did not pay me for almost two years, they promised that when I arrived home, they would send the money to me. Until now, I haven’t received anything.”

“When I tested positive for COVID-19, the employer didn’t allow me to stay in the workers’ accommodation. I asked him for my last wages which would help me stay and receive treatment, but he said to wait until I recovered first then he will pay. As I couldn’t stay there without a doctor’s order, I had to leave and return to Cambodia without getting my pay.”

The narratives indicate false promises made by the employers and that the pandemic may have been used as an excuse to return workers and avoid paying dues owed to them.

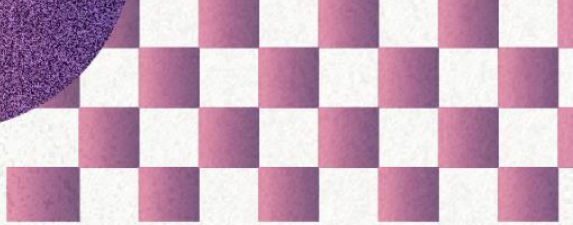
- **Mobility restrictions**

Restricted mobility in the workplace increased vulnerability to forced labour, even prior to the pandemic. Among the respondents, 63% faced mobility restrictions during the lockdown, while (54%) faced such restriction in the pre-pandemic period.

“I was a construction worker and lived on the construction site. That was not good for my health, especially during COVID-19. The market was so far from my accommodation it was difficult to get to and I could only buy canned food.”

Due to the mobility restrictions imposed in Thailand, workers had to rely on irregular routes through forests and uncleared areas to return to Cambodia. The fear of contracting COVID-19 and lack of income during the pandemic forced many workers to leave everything behind, including unpaid wages. A Cambodian family narrated that:

“We had no option other than escaping from the country. The employer was unable to help. My husband and I crossed the border through the forest, where we were intercepted by the Cambodian police patrolling there. They brought us to stay in 14 days for quarantine before they let us back to the community.”



Among the workers who faced wage theft, 22% also faced mobility restrictions during the pandemic. The mobility restrictions may have prevented workers from accessing various services, including grievance redressal mechanisms.

- **Excessive/reduced working hours**

None of the Cambodian respondents reported facing any change in working hours during the pandemic. As many workers lost their jobs, employers might not have given the option for the returnees to stay and work on reduced hours or workers might not have found it possible to stay on reduced hours and therefore wages.

- **Job loss**

55% of the Cambodian respondents lost their jobs. One respondent stated that:

“There was no construction work and we lost our jobs. The supervisor could not afford to pay our rent and none of us received pending wages. We could not stay longer and approached the authorities for help.”

More male respondents (61%) lost their jobs than female respondents (47%). This may be linked to the decline in the male-dominated construction sector, which was disproportionately affected by the pandemic, with 77% of Cambodian workers in the sector losing their jobs. The length of time working in a job may have affected retention as 61% of those who lost their jobs spent less than five years in Thailand. In low-skilled jobs, migrants who stay longer may have a better relationship with the employer, and the duration of the stay may influence the employer's decision.

EXPERIENCE OF A CAMBODIAN FAMILY

“In late 2021, when the outbreak in Thailand was at its peak, my husband and I were really concerned about our safety and security in Thailand. We asked for travel documents from the agency but they said that our documents had expired and we could not use them anymore. We felt hopeless and did not know what we should do. Finally, we decided to run away but were caught by the Thai police and deported to the Cambodian border.

Upon arrival at the border, the authorities measured my temperature but did not conduct a test for COVID-19. I tested positive when I arrived at a quarantine center in Kampot, my hometown, and had to stay there for 21 days. One thing I recalled from my journey back to Cambodia was being asked to pay money to both authorities in Thailand and Cambodia, but I didn't know what it was for. I wasn't able to pay but later found out from some workers who did, that if we paid them then we didn't have to stay in the quarantine centre along the border.”

- **Access to services**

Workers lacked access to vital services even before the pandemic, which impacted their working and living conditions. Before the pandemic, 63% of the respondents received support from their employers to access health services. During the pandemic, only 1% of the respondents received government support in the form of personal protective equipment, and 55% of the workers received updates about the lockdown measures from the employer. During the lockdown period, 99% of the

Cambodian respondents did not receive any assistance from any service provider, government or non-government.

- **Employment contracts**

19% of Cambodian respondents had employment contracts with basic clauses such as duration of the contract, clauses on termination, type of jobs, types of duties, and among them, only 13% of workers had clauses on wages, shelter, insurance, accommodation, etc. 59% of the respondents who did not have employment contracts lost their jobs during the pandemic, compared to only 41% of those who had contracts. In addition, 94% of workers with an employment contract received regular wages during the pandemic, compared with only 74% of those who did not have a contract.

None of the reported accessing a grievance redressal mechanism to retrieve their unpaid wages or other labour violations. Only 3% percent cited a lack of awareness about the complaint mechanism as the reason for not filing the complaint. The rest of the workers may have been worried about retaliation from their employer or may have wanted to seek redress but not had access to a complaint mechanism. The respondents narrated that they received quality quarantine support from the Cambodian government including transportation from the border to their hometowns.

Among the respondents, one of the most affected groups of workers were fishermen who experienced various labour rights violations even before the pandemic. The denial of wages during the pandemic worsened the conditions for fishermen and other indicators of forced labour during the pandemic were reported by respondents.

FROM BAD TO WORSE: THE PANDEMIC STORY OF FISHERMEN

Before and during COVID-19, myself and other workers had to stay on the boat. When the boat docked at the port, I could only walk around the port area as I did not have any documents and worried that the boat captain would beat me if I went out without his approval. For food, all the workers had to eat together and we could only eat some of the fish we caught. Working on the boat was not easy, we worked every day and every week. Sometimes, during the busy fishing months, we worked like robots, around 16 to 18 hours, or even 20 hours, per day.

The boat captain did not allow me or other workers to go anywhere. When the boat docked at the port, we had to continue working, repairing the fishing nets, cleaning the boat, filling the ice, water, and other tasks. If I wanted to get off the boat, I had to ask permission from the captain, and if he said no, I did not dare to go. One time, I saw one worker escape from the boat and was finally arrested and returned, that worker was tortured cruelly and was not allowed to eat for a day.

I did not receive any wages since I worked on the boat. I only receive some money to buy the things I needed to use when we were at sea. Working on the boat was really difficult, both for my safety and security. I experienced a lot of abuse and from the captain, but I didn't know what to do. I just kept silent. I worked for 5 years but ultimately received nothing and now I have health problems and no money to pay for treatment.

This testimony highlights that the pandemic exacerbated vulnerabilities for many migrants and the non-payment of wages worsened the working and living conditions, as well as abuse, they already experienced.

5.2 Indonesia

The data reflects large-scale wage theft and incidence of forced labour among returned Indonesian migrant workers. Among the respondents, domestic workers were the most affected due to wage theft and forced labour. Unlike in Cambodia, the existence of employment contracts did not appear to help protect workers' rights. The forced return of Indonesian workers from the destination countries contributed to incidents of wage theft. 90% of the returnees did not receive the promised wages once they returned to Indonesia

5.2.1 Profile of sample

54% of Indonesian respondents were female migrant workers and 44% were male. The large majority interviewed (88%) were interviewed as returnees in Indonesia and the remainder were still working in destination countries. The majority (68%) had worked in Malaysia, while a further 18% worked in Cambodia, and 14% in Singapore. Among the respondents, 37% were domestic workers, 21% of the workers were casino employees, 12% worked in construction, 7% were employed in restaurants and 8% on plantations, while the remainder worked in a range of other sectors²¹. A notable feature of the sample is that 42% were short-term migrants who spent less than two years in the country of destination, while 35% were there for 2-5 years.



Figure 4: Percentage of respondents according to gender

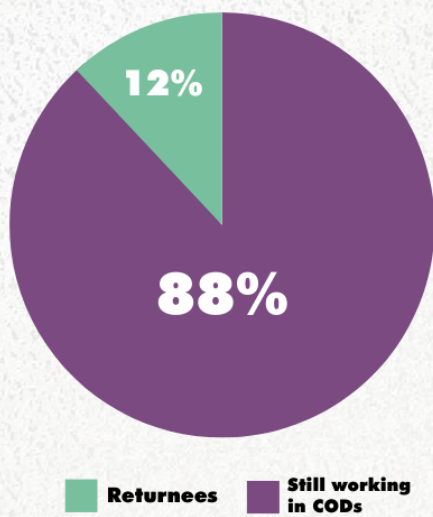


Figure 5: Percentage of respondents according to employment status

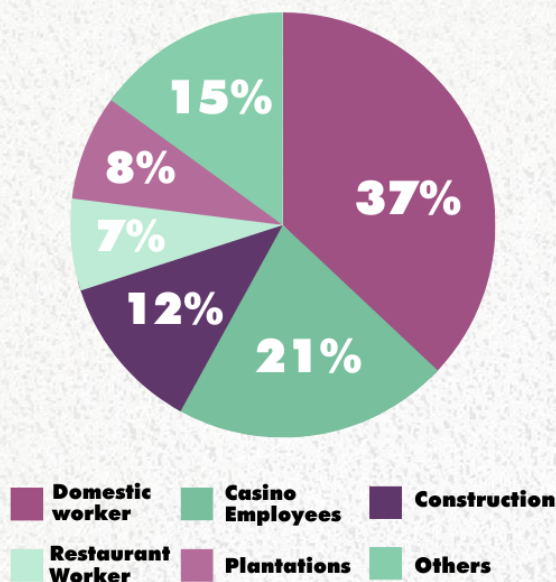


Figure 6: Percentage of respondents according to sector

²¹ <https://doi.org/10.1080/12259276.2022.2051818>

5.2.2 Wage theft and other vulnerabilities to forced labour

- **Wage theft**

Wage theft was experienced by the Indonesian migrant workers during the pandemic. 39% of the workers did not receive regular wages during the pandemic, and 22% had no clear timeframe for receiving their wages. Among the respondents who received a specific time frame, 90% did not receive the promised wages after returning to their home country. As one female domestic worker who returned to Indonesia noted:

“I had to leave my employer due to a family emergency back home. I came back home with the help of the embassy. The employer promised to pay the wages within one month after I returned. Even after two years however, I have not received any money.”

It appears that gender does not have an impact on the non-payment of wages for Indonesian migrants in the sample, with 41% of women and 40% of men affected.

“I did not feel that men only receive salary. The crisis affected all of us and the employer denied wages for all.”

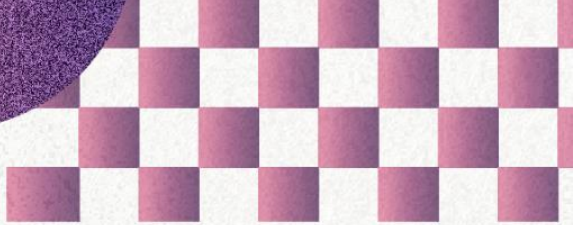
A small number of respondents worked in restaurants and they were the most affected by wage theft, with none reporting that they had received regular wages during the pandemic. This was followed by casino employees (88%) and domestic workers (42%). The duration of stay in the destination country also appeared to correlate with risk of wage theft, in that respondents who spent less than two years in the destination countries were more likely to experience wage theft. This was particularly evident from the narratives of irregular domestic workers in Malaysia, identified as ‘temporary maids’ from the online maid scheme, and who had to work with multiple employers for a shorter period. One respondent stated that:

“My senior colleagues who stay in Malaysia for more than five years did not face wage issues since they have developed good relationship with their employers. But we could not develop a good relationship since we started only months before the pandemic hits the country.”

More than half of the returnees in Indonesia (51%) who lost their job during the pandemic reported experiencing wage theft. 57% of the Indonesian workers returned without receiving their dues and only 5% of the workers received end-of-service benefits. Having an employment contract did not seem to offer protection for the workers from wage theft as 49% of those who possessed a contract were affected, compared to only 29% of the workers who did not have a contract. A domestic worker with a written employment contract stated that:

“It was written in my contract that I will receive 1500 ringgit per month for 12 hours per day work. But citing the pandemic as a reason the employer cut my wages in half.”

The domestic workers reported that the employers cut their wages because of the economic impact of the pandemic, rather than issues linked to worker performance or conduct. However, it was also reported the workers experienced salary deductions for a range of reasons, including small mistakes, whether they were responsible or not.



“Yes, employers often cut my wages for various reasons. Like the use of water, the electricity I use is deducted from my salary. Then if something is damaged even though it's not my fault, it's still my salary that gets cut up to 300 RM (US\$63).”

During the focus group discussions, the domestic workers from Indonesia reported that the employers had denied their wages during the pandemic by providing misleading information about the advance payment for the recruitment agency to facilitate travel and visa processing. The employers had taken advantage of the debt bondage to manipulate the payment of wages during the pandemic. A returnee domestic worker elaborated that:

“I thought the employer was paying all the costs, ranging from tickets to mandatory training in Jakarta. I realised that all the money would be deducted from my salary and will be paid to the recruiter only after the first month at work. He did not pay me salary in the first three months and said that he transferred the money to recruiter. Then the Covid lockdown happened, and he said that the recruiter is seeking more money and he is paying from my salary. I came to know that he was manipulating me only after my interaction with other domestic workers who returned with me.”

While wage theft was a feature of work during the pandemic, respondents reported few opportunities to retrieve their wages. Forced return from the destination country significantly impacted the possibilities of workers retrieving the wages through negotiations, mediation, or by filing complaints.

- **Intimidation and threats**

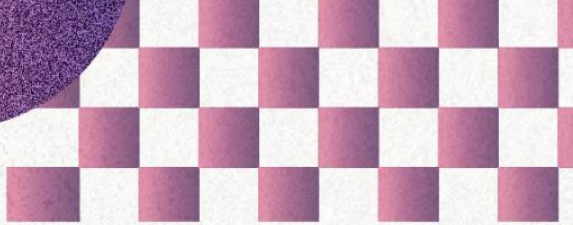
Some respondents experienced intimidation and threats that contributed to their situation of forced labour. Most respondents faced such situations when they tried to file a complaint or retrieve unpaid wages. 18% of the Indonesian respondents who filed cases against their employer faced intimidation and threats from the employers and were counter-charged with filing 'fake cases.' During the pandemic, 22% of workers who lost jobs were threatened with termination. One casino employee from Indonesia stated that:

“I was abused verbally most of the time. Once I sought for my wages the employer threatened to kill me and I faced physical attacks.”

21% of the domestic workers faced retaliation from the employer after filing complaints and, as a consequence, were forced to leave their jobs. The fear of retaliation and/or of being caught by the police were the primary reasons that prevented the workers from filing their complaints. Domestic workers reported that they faced verbal and physical abuse from their agency or broker since many workers stayed in the agency shelters during the pandemic and work on ad hoc terms.

- **Mobility restrictions**

Mobility restriction during the pandemic aggravated the vulnerabilities of migrants and often led to forced labour situations. **86% of Indonesian respondents faced mobility restrictions** during the pandemic, while **66% had such restrictions prior to the pandemic, the increase of 20% was mostly among male migrants.**



Apart from domestic workers whose mobility was curtailed even before the pandemic, male workers employed in casinos and retail shops also faced restricted mobility during the lockdowns.

“Before COVID, I had the freedom to travel everywhere. Once the lockdown started the employer did not allow us to go out and the local staff brought groceries and vegetables from outside for cooking.”

- **Excessive/reduced working hours**

During the pandemic, many employers reduced the working hours of migrant workers due to government restrictions and demand-supply mismatch in the supply chain, however workers were often forced to stay and work with low wages. **25% of Indonesian respondents experienced an increase in working hours, compared to 19% who had reduced working hours. 80% of the construction workers had changes in their working hours**, the majority of whom experienced a reduction. **47% of domestic workers experienced changes in working hours**, although only 10% experienced an increase. This may be attributable to the fact that most of the domestic workers were already experiencing excessive working hours. All casino employees witnessed an increase in the working hours, however this may have been in alternative work, as indicated by other sources²². As a whole, workers experienced an increase in working hours without a corresponding increase in wages (sometimes for reduced salary) and saw a reduction in the wages in proportion to the reduction in the working hours.

- **Physical and Sexual Violence, including Threat**

Physical and sexual violence against the workers was a significant contributing factor to forced labour, and **8% of the workers reported** experiencing such abuse in the workplace.

- **Abusive Working and Living Conditions**

In general, the pandemic worsened working and living conditions due to social distancing protocols and unexpected job losses. **11% of Indonesian migrant workers interviewed lost their accommodation**, which affected female respondents more significantly, with **20% of women losing their accommodation**. Most of those who lost accommodation relied on the help of friends, and only a few opted for government shelters.

Before the pandemic, **54% of the respondents had access to health services, but this declined to 22% during the pandemic**. A few workers reported that they were updated about the lockdown and other news during the pandemic by their agents or brokers, with whom they had regular communications.

- **Job loss**

A large majority of the Indonesian respondents **(80%) lost their jobs during the pandemic**, with little difference between female and male respondents. **Among the domestic workers in the sample, 78% lost their jobs**, compared to 90% of workers in construction and all of the casino employees interviewed.

- **Employment contract**

The absence of employment contracts, the violation of clauses, and contracts without proper clauses that protect the rights of migrants often lead to situations of forced labour. 26% of the sample respondents reported that they did not possess an employment contract. Among the workers who reported having contracts, almost half of them had contracts with only basic terms

²² There have been many reports of those recruited for work in casinos and related industries being deceived into working in call centers for online scams, over the COVID-19 pandemic. For example: <https://globalinitiative.net/analysis/modern-slavery-mekong-casinos/>

such as wages, type of work, employer details, etc. Possession of an employment contract did not have a significant impact on job loss, **85% of the workers without a contract and 80% of the workers with a contract also lost jobs. Among the workers who signed a contract, 57% did not receive promised wages. Of this 57% however, 42% had filed complaints and received favourable solutions to the grievance filed.**

- **Access to grievance redressal during the pandemic**

Access to regular grievance mechanisms during the pandemic helped to address exploitation and reduce vulnerability. **77% of respondents filed a complaint against wage theft.** Among the workers who made complaints, **42% of the workers did so directly to their employer, 17% to their recruiters, and 18% to the Indonesian Government.** Among the returnees, **20% filed a complaint with Indonesian government agencies, and 9% used NGO platforms.** There were no significant differences in access to grievances between male and female workers as a whole, however differences in overall channels and outcomes. By sector, **89% of the domestic workers and 83% of the construction workers filed a complaint.** Most domestic workers (63%) depended on their employer to address their grievances, while casino employees all approached government agencies for grievance redressal.

Overall, **52% of the total workers had their grievances addressed** with respect to wages, and **42% resolved the grievances through negotiations with the employer.** All the construction and plantation workers had their grievances redressed, while only 36% of the domestic workers did. None of the casino employees who relied on the government for grievance redressal had their issues resolved.

Considering the range of vulnerabilities, it is notable that a substantial proportion of the respondents had access to remedial mechanisms during the pandemic. It appears that some workers were able to negotiate with their employers to address their wage grievances. However, complaints that involved a party other than the employer had limited success.

Wage theft was experienced by Indonesian workers who were employed in casinos in Cambodia, which was coupled with several forced labour situations, as indicated in the following case study:



WAGE THEFT AMONG INDONESIAN WORKERS IN GAMBLING CENTRES

After seeing an offer of work in Poland in an advertisement on Facebook, a number of the workers applied and paid 20 million Rupiah (approx. 1,270USD) in recruitment fees. However, the recruiter changed the terms after they agreed to work, citing various reasons including the pandemic, and they were taken to online gambling centres in Cambodia instead. They did not receive any wages but the employer promised to pay them commission if they made money by scamming the customers. The workers were intimidated and faced death threats, mobility restrictions, physical and verbal abuse. If workers did not achieve their targets, deductions were imposed. Their documents were withheld and if workers wanted to quit, they had to pay a fine of \$3500. A respondent stated that:

“You had to keep working under threat of torture or imprisonment, and the burden of debt imposed by the company (fines of \$5-10 per day if you don't meet the target, and a fine of \$100 if you don't get 6 customers per week), or you would be locked up and fined \$3000 to \$4450 if you refuse to work.”

The group of workers managed to retain access to a mobile phone and called the Indonesian Embassy. They also contacted Protection of Indonesian Citizens and Indonesian Legal Aid, Indonesian Migrant Workers Protection Body, and Indonesian Police Criminal Investigation and Investigation Agency with the support of the SBMI (Indonesia's migrant workers' union). A collective effort ensured their safe return, however attempts to retrieve the wages were unsuccessful in part because the workers were undocumented.



5.3 Malaysia

As a country of destination, migrant workers had relatively better access to housing and food during the pandemic. But the stringent mobility restrictions led to loss of jobs and reduction in working hours for workers, except the domestic workers who faced an increase in working hours. Even though most of the workers have health insurance coverage, only half of them had access to health services during the pandemic. Around 60% of the workers did not receive regular wages during the pandemic, and migrant workers in the construction sector were the worst affected group. Also, the rate of grievance redressal among domestic workers and workers from service sector was higher compared to other workers. The lack of access to services, lack of jobs and wage theft worsened the existing forced labour situation in Malaysia.

5.3.1 Profile of sample

Among respondents in Malaysia, 57% were women and 43% had regular status, therefore 40% were irregular. 60% did not receive regular wages during the pandemic. Respondents were from the Philippines (38%), Indonesia (31%) Myanmar (23%), Vietnam (7%) and Thailand (1%). 31% of respondents were employed as domestic workers, 17% in the construction sector, 17% in the food and beverage services, 24% worked in hospitality and other services 10% in the restaurants and the rest in other sectors. 51% of the respondents spent more than six years in the destination country, and 38% of the workers had employment contracts.

Figure 7: Percentage of respondents according to gender

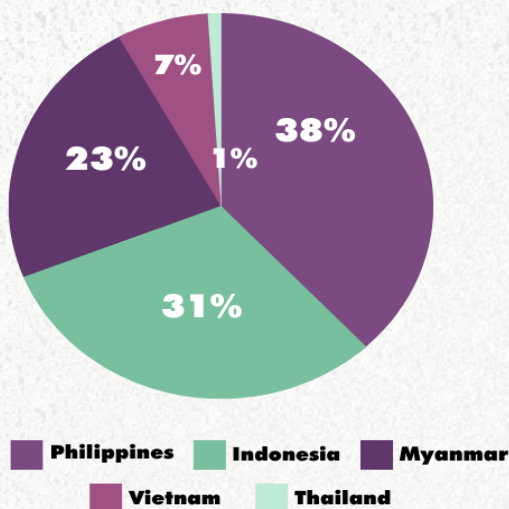


Figure 8: Percentage of respondents according to employment status

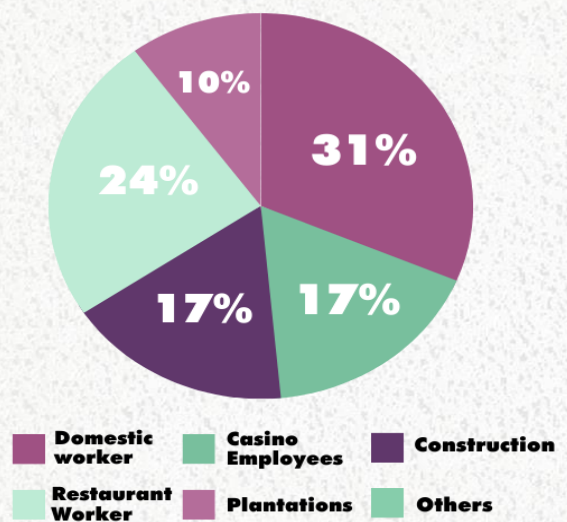


Figure 9: Percentage of respondents according to sector

5.3.2 Wage theft and other vulnerabilities to forced labour

- **Wage theft**

61% of those interviewed in Malaysia did not receive regular wages during the pandemic. The rate of non-payment of wages among male workers (78%) was significantly higher than the female migrants (47%). **Workers in the construction sector were most affected (88% did not receive regular wages during the pandemic)**, followed by the hospitality and other services sector (82%) and the domestic work sector (32%). Among the victims of wage theft, 63% of the workers spent less than five years in the country.

- **Job loss**

53% of respondents in Malaysia lost their jobs during the pandemic, with men somewhat more vulnerable to losing their jobs (60%) than women (54%). Job losses were significantly different depending on the sector, with 88% of the construction workers losing their jobs during the pandemic, followed by 60% in the service sector and 42% in the domestic work sector. A restaurant worker stated that:

“I lost my job in the restaurant due to pandemic. The business was badly affected during the pandemic. I rented a room as accommodation was not provided by my employer. I was able to pay before but during pandemic I had difficulty paying my rent. I also rely on food aid most of the time because as an undocumented migrant my employer is not obligated to assist me”.

The pattern of job loss and the sectors affected most by wage theft in Malaysia is similar to the patterns reported in other countries studied. Among the workers who stayed longer in Malaysia (more than five years), 51% lost their jobs, while among those who stayed for less than three years, this rose to 64%.

- **Excessive/reduced working hours**

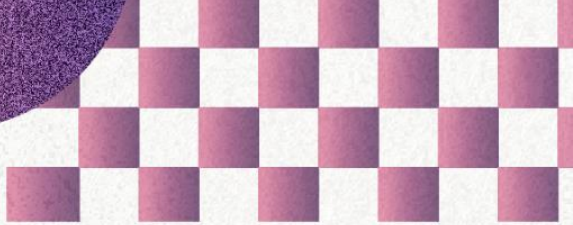
Many workers faced changes to their working hours during the pandemic. Among the respondents who worked overtime, 14% remained in jobs without regular pay. An increase in working hours without regular pay forced them into precarious working conditions.

Among the domestic workers employed during the pandemic, 60% experienced an increase in working hours. The increase in working hours correlated with lockdowns and mobility restrictions. In contrast, all workers in construction and hospitality who were employed experienced a reduction in working hours. This would also indicate that the workers who faced a reduction in working hours would also have lost income.

- **Mobility Restrictions**

“Every time I go out to work, I fear the risk of being arrested and faced with roadblocks due to my undocumented status. I try to avoid the roads that have roadblocks, which therefore takes longer to get to work”. (A domestic worker employed in Malaysia)

The Malaysian Government imposed some of the most stringent mobility restrictions. 81% of respondents in Malaysia faced mobility restrictions during the pandemic, among whom 63% lost their jobs. Similarly, 73% of the workers who faced mobility restrictions lost their regular wages during the pandemic. As the above narrative indicates, some workers had to find ways to evade the



mobility restriction to survive, increasing their vulnerability and precarious situation during their stay in Malaysia.

- **Intimidation/threats**

26% of respondents cited fear of retaliation as the primary reason that prevented them from filing the complaint, followed by irregularity and lack of awareness of their rights. Domestic workers were more prone to intimidation and threats due to the closed working environment, as one notes

“Due to my undocumented status, I frequently got stopped by police who demanded ‘coffee money’²³. Sometimes I pay RM50, RM100, and once paid RM500.”

39% of the domestic workers interviewed reported that fear of retaliation from employers prevented them from filing the complaint. 15% of the total respondents reported that their documents had been confiscated, which also hindered the ability of workers to make complaints.

- **Physical and sexual violence**

The literature indicates that workers experienced a drastic increase in the rate of physical and sexual violence in the workplace compared to the pre-pandemic period²⁴. 20% of the workers experienced physical abuse in the workplace, and most workers reported cases of verbal abuse and constant pressure from their employers. A domestic worker from Indonesia reported:

“I did not experience any physical violence. However, since the employer and his family mostly spent time at home, they verbally abuse me for every mistake I made in the kitchen.”

- **Abusive Working and Living Conditions**

Unlike in other countries studied, no respondents lost their accommodation during the lockdown. However, only half received proper health coverage during the pandemic, while 98% of the workers had access to healthcare services in the pre-pandemic period. Such health coverage from health insurance was provided by their employers. Further, 14% of the workers faced food shortages and required the assistance of NGOs to meet their basic needs.

- **Grievance Redressal**

Only 10% of domestic workers and 18% of construction workers interviewed in Malaysia filed complaints against their employers during the pandemic. Construction workers mainly relied on employers, and domestic workers approached recruitment agencies for grievance redressal. Among the respondents, 14% successfully retrieved their unpaid wages, with male workers among these being more successful at receiving unpaid wages (46%) than female workers (38%). All the domestic workers and 18% of the workers from the service sector who made grievance claims retrieved their wages, and the rate of grievance redressal in Malaysia is comparatively higher than in the other countries studied.

²³ Duit kopi, a Malaysian term for ‘coffee money’, stands for giving money with an expectation of receiving a counter-favour, although generally not a monetary one. The term duit kopi is a metaphorical and metonymical formula for a brief informal transaction between two individuals who do not know each other.

²⁴ <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>



- **Employment contract**

Respondents in Malaysia without a job contract were at greater risk of losing their jobs (59%) than those with contracts (44%). Further, 44% of those with employment contracts did not experience any change in their working hours compared to only 13% of those without contracts. 73% of the workers who did not have contracts failed to receive regular wages, compared to only 44% of the workers with contracts failed to receive wages. The data suggests that migrant workers with employment contracts experienced more stability and less precarity than those who do not and are in irregular status.

Most of the employment contracts held by migrant workers interviewed had a 'no work no pay' clause in their contract. As one worker noted:

“I did not ask for my wages when I did not work for two months as I was in the category of no work, no pay”.

More than 90% of workers with employment contracts did not receive overtime benefits, the figure was slightly less for workers without contracts (80%). This may have been due to the higher cost of paying overtime to contracted workers.



5.4 Philippines

Filipino migrant workers are employed in significant numbers in countries around the world, including in ASEAN Member States. Nearly half of the respondents experienced wage theft during pandemic. Domestic workers were the worst affected, and workers who stayed longer were also prone to wage related exploitation, in contrast to other migrants, such as Cambodian workers in Thailand. The incidence of physical and verbal violence contributed to the high incidence of forced labour indicators among the workers, especially domestic workers. Domestic workers relied on informal requests to employer to address their grievances. The rate of case filing and retrieval of unpaid wages from the respondents is high compared to other countries. Overall, the Filipino returnees and current migrants have better access to services in countries of destination.

5.4.1 Profile of sample

88% of the respondents were female and 76% were returnees, while the further 24% were still employed in their destination countries. 63% of respondents had worked in Singapore, 13% in Malaysia, and 12% in Thailand, and nearly half of the respondents (48%) were domestic workers.



Figure 10: Percentage of respondents according to gender

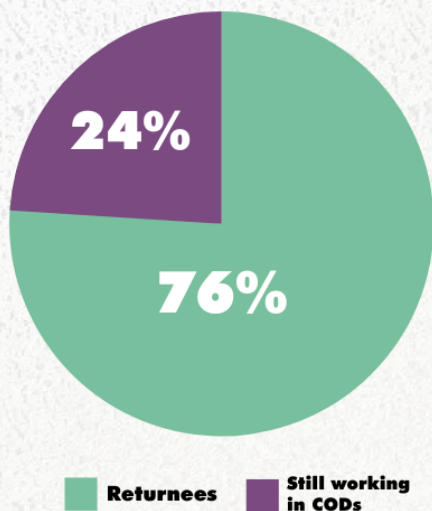


Figure 11: Percentage of respondents according to employment status

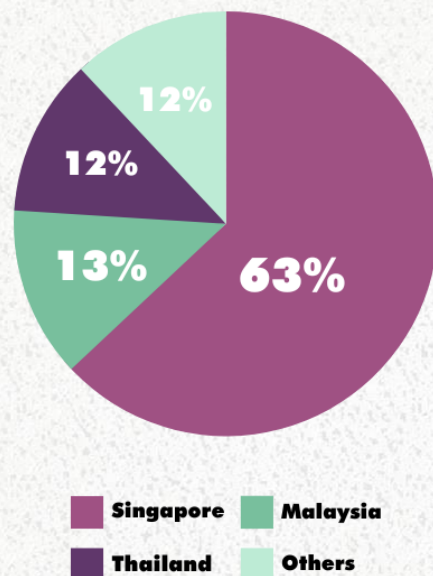


Figure 12: Percentage of respondents according to country of destination

5.4.2 Wage theft and other vulnerabilities to forced labour

- **Wage theft**

44% of the Filipino respondents did not receive regular wages during the pandemic, while 25% did not receive their leave entitlements. 90% of respondents had lost their jobs and 58% among them are victims of wage theft. A Filipino worker employed in a club stated that:

“We haven't been paid for 6-7 months and live on the customers' tips and incentives from the club. They told us then when the salary comes, they will call us to receive it, but now we are back in the Philippines.”

Among the domestic workers, **33% did not receive regular wages** during the pandemic. The respondents who stayed less than five years were more prone to exploitation, 58% of whom did not receive regular wages.

- **Excessive/reduced working hours**

Around 36% of the workers experienced changes in working hours during the pandemic, with just under half (17%) experienced increased working hours, and slightly more (19%) experienced reduced working hours.

“During the pandemic, my work sometimes doubled or even tripled. Before the pandemic my boss was working at the office. I only cooked their food at night. During the pandemic, I cooked food from morning to night.”

The narrative of a domestic worker in Malaysia reflects the impact of change in working hours on the worker's daily life. Among the domestic workers, 25% experienced a reduction in their working hours while 21% reported an increase in their working hours.

“When they are not at home, I have sufficient rest, food, and peace of mind. When they are at home, I need to eat fast because they have a lot of demands. I work with double effort, every minute counts because everyone is at home.”

Analysis around the pandemic suggested that domestic workers may have experienced increased working hours due to the lockdown, as indicated by these accounts²⁵.

- **Working and Living conditions and access to services**

11% of female respondents lost their accommodation and had to depend on government shelters, whereas all male workers kept their accommodation. 74% of respondents had access to hospitals, and the majority (66%) received support from their employers during the pandemic. However, several respondents stated that they had not been provided enough food at the workplace, especially domestic workers.

“In housing, we have our room so we have privacy and the food was okay, but now that there's a pandemic, my boss has restricted it, and I could only eat once a day”.

²⁵ <https://www.a-id.org/impact-of-covid-19-pandemic-on-domestic-workers-in-nigeria-some-highlights/>
https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-kathmandu/documents/publication/wcms_769695.pdf
<https://scroll.in/article/1006469/how-covid-19-pandemic-has-further-pushed-indias-female-domestic-workers-to-the-margins>



- **Mobility Restrictions**

92% of respondents experienced mobility restrictions as a result of the pandemic-related policies, which made workers more vulnerable compared to the pre-pandemic period. This is compared to 27% of respondents who reported experiencing mobility restrictions prior to the pandemic. The mobility restrictions often led to discrimination and differential treatment, especially while traveling for work. A Filipino worker who returned from Malaysia stated that:

“When they find out we are foreigners, they do not let us ride public transportation. This is because they know that we are exposed to different kinds of people, so they assume that we are carriers of the virus.”

Among the respondents, 34% of the workers reported that mobility restrictions prevented them from filing complaints, and 58% of the workers who did not receive regular wages also experienced mobility restrictions.

- **Intimidations/Threats**

Workers were often threatened by their employers when they sought their wages and filed complaints. 15% of the workers interviewed reported threats from their employers and 8% reported having their documents confiscated. Further, a significant 19% of respondents faced physical abuse during the pandemic.

Among those who lost jobs, 9% were advised to travel back to their homes without their salary and 22% were 'asked' to resign, potentially under duress. The workers also faced racist abuse as one notes:

“It is inevitable, there are always racist comments from locals. It worsened during pandemic.”

However, it was also noted that this improved once locals got to know the migrant workers, as one notes, **“It eventually got better once we spent time with them. They become more caring and helpful. They understand the situation is difficult for us given the crisis”.**

- **Job loss**

90% of Filipino workers lost their jobs during the pandemic. Among the returnees, 67% of workers returned due to losing their jobs or forceful termination of contracts, and 40% did not receive their pay in full. 90% of the domestic workers surveyed lost their jobs during the pandemic, while all those who worked in the education sector, including teachers, lost their jobs. As one teacher who lost their job noted:

“I left my job during the pandemic. The school wanted me to conduct online classes. But I did not have the facility to conduct online classes regularly at my accommodation”.

Female Filipino workers (92%) were found to be more at risk of losing their jobs than male workers (81%).



- **Employment Contract**

Data from the survey suggests that having an employment contract did not protect workers from losing their jobs or experiencing wage theft, with 89% of workers with contracts losing their jobs and 51% experiencing wage theft. Having an employment contract did appear to help ensure the workers received their promised wages upon their return to the Philippines, with 88% of workers with a contract receiving their wages as promised. Many workers described having a ‘no work no pay’ clause in their contracts however, and this may have resulted in them accepting violations of their rights. A respondent noted:

“I was previously not affected since the employer does not have a ‘no work no pay’ policy, as we have a fixed salary. However, during lockdown when they were unable to work for a whole month, we did not receive any salary – No work, No pay”.

- **Grievance redressal**

Wage theft was the primary reason for filing complaints during the pandemic. Among the Filipino workers, 14% filed complaints mostly directly with their employers, and 46% of victims of wage theft successfully retrieved their wages.

Only 6% of the workers who returned to the Philippines used grievance mechanisms and 5% were successful. Among the workers who retrieved their wages, 60% believed that the negotiations with the employers worked well. 17% of the female workers filed complaints/sought help from through a grievance mechanism, but none of the male workers filed a complaint. Domestic workers were the only category of workers who filed complaints and these were in the form of informal requests to employer. 36% of domestic workers made complaints against wage theft or other violations of rights.



5.5 Thailand

The data consists of responses from 100 migrant workers from Myanmar working in Thailand²⁶. Most of the respondents have long-term employment and are relatively well settled in Thailand. Unlike the other four countries studied therefore, there is a high degree of convergence among respondents and strong similarities in their experiences.

Even though there is significantly less incidence of wage theft among the respondents, most did not receive any benefits other than wages. The workers from Myanmar rarely received government services during the pandemic. While the workers largely did not report wage theft, this may have been attributable to their not having fixed wages. Further, the fear of being caught and fear of retaliation from the employer prevented the irregular workers in the corridor from filing the complaints.

5.5.1 Profile of sample

Among the 100 respondents, 52% were male and 48% were female migrant workers. 71% were regular or fully registered migrant workers, while 29% were irregular, or partially undocumented. 22% were employed in agriculture, 24% in construction, 27% were factory workers, and the rest were in other sectors. Two-thirds (66%) of the respondents had spent more than 10 years in Thailand and 20% had been in the country between 6-10 years.



Figure 13: Percentage of respondents according to gender

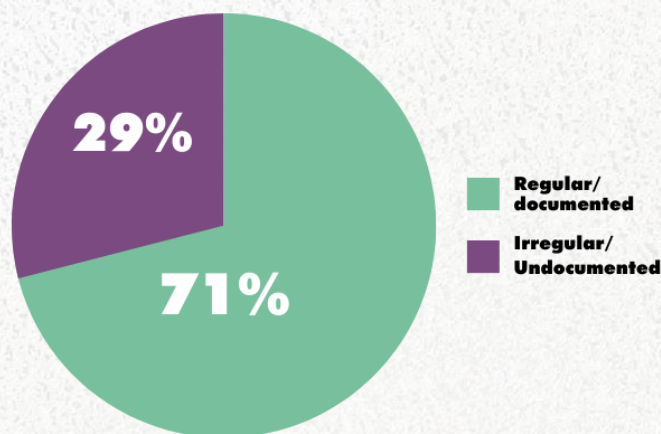


Figure 14: Percentage of respondents according to migration status

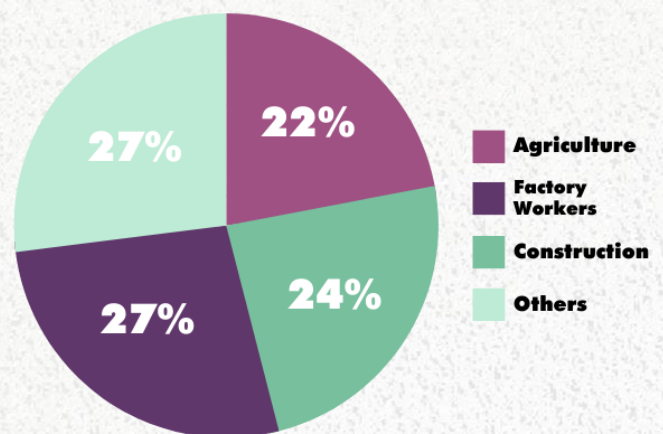


Figure 15: Percentage of respondents according to sector

²⁶ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_098230.pdf

5.5.2 Wage theft and other vulnerabilities to forced labour

- **Wage theft**

“There is no clear agreement of how many days I will be working in a month. We only agree on how much I will be paid per day and when I will get my wages. For wages, I still get it as agreed. But sometimes, they pay me late or postpone the pay date.”

96% of the workers received regular wages during the pandemic, and only 4% failed to receive regular wages. Even though workers reported that they received regular wages, there were often delays in the payment of monthly wages. And some workers reported a reduction in payment of overtime. A construction worker stated that:

“The employers paid wages regularly, but with delayed payment every month, and regular overtime payment has also been reduced.”

Among the respondents, **81% did not receive any other benefits** and only **9% of workers received overtime pay**. Approximately **40% of the workers did not receive the end of service benefits and 20% did not receive overtime benefits**. The failure to provide benefits other than regular wages such as service benefits and other dues was a feature of the Thai-Myanmar migration corridor during the pandemic. Respondents reported only a few cases of wage theft, however this may be due to the misconception among workers that employer are not obliged to pay if there is no work or less work.

RELiance ON VERBAL CONTRACTS

My employer often come up with very believable reasons. Once again he reassured us that if the work was done at this point, all the outstanding and current balance will be paid. However, he did not pay as promised to some employees. But some employers have already paid wages to their employees”.

- A construction worker from Myanmar



- **Reduced/excessive working hours**

15% of workers had significantly reduced hours during the pandemic, while a total of 70% of respondents reported changes in working hours. 34% of workers who experienced alterations in their allocated shifts only managed to work on alternative days. 88% of construction workers and 36% of agricultural workers experienced changes in working hours.

“Working time is not fixed and always changing. Most of the time, we only work 4 days a week. Sometimes I have to go home while at work if someone among the working people is found to be at risk of having contracted the virus.”

Respondents pointed out various changes initiated by the employer that affected their working hours. Employers moved to shifts to accommodate more workers as per their requirements. A construction worker states that:

“Working hours have been changed, from all seven-days work to a 1-day off per week. But with the pandemic, we have to take turns working. We have 15-days of work per month. Also, as the economic impact takes its tolls, this is causing employers to earn less.”

- **Abusive Working and Living Conditions**

Most workers managed to keep their accommodation, and **only 5% reported they did not have accommodation**. Among the respondents, **50% did not receive adequate food, 50% received support from NGOs, and 35% received support from their employers**. Food shortages most severely impacted workers in construction and domestic work, with 64% of construction workers and 75% of domestic workers reporting they did not receive adequate food.

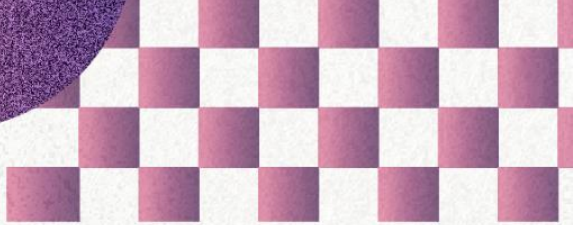
Respondents' ability to access services was limited, with **97% not receiving any government support during the pandemic apart from health services**. Only **31% of respondents had access to health services** compared to the 90% before the pandemic, and around half of the workers (**53%**) were required to pay for their own health expenses. **Only 3% of workers received free rations from the government**. The following narratives from two Burmese workers illustrate the deterioration in living standards of migrant workers during the pandemic:

“The housing was ruined. Rats are roaming around and only sounds of them can be heard at night. I was unable to sleep soundly at night because of this. (My) clothes were often gnawed by the rats. When it's raining the house roof is leaking. There's no running tap water. I have to scoop the water up from the deep well and carry it on my shoulders.”

“I had to find a cheaper room to rent. But the cheaper rooms were very often dilapidated, insecure, humid, and stuffy. When it rains, it leaks, and once someone broke in and stole my phone.”

Respondents highlighted the reduction in their wages and its impact on the increased living costs during the pandemic. Workers did not receive an increase or faced reductions in wages while day-to-day expenses were multiplied during the pandemic. One worker noted:

“Expenses have increased. ID card fees are 20,000 baht each, and for my wife and myself, two people, we paid 40,000 baht. And we have to send money home every three months. Besides, my wife was pregnant and



has now just given birth to a child. This added a lot more costs for the hospital and travel expenses, for notifying the birth of the child, milk, and expenses for the baby. And I am now still working alone. The cost of gasoline for commuting to work has also been increased”.

The data from Thailand portrays a clear decline in working and living conditions of workers during the pandemic.

- **Mobility Restrictions**

All respondents faced strict mobility restrictions during the pandemic, while only 5% experienced such restrictions before this. 20% of workers could not leave their workplace at all due to the restrictions.

- **Job loss**

“Life was hard without a stable job or sometimes no work at all. There will be no income to pay for everyday expenses. And if the case worsens with a period of no work at all, but necessary expenses to be paid, such as room rent, legal documents, and medical expenses, then I must borrow from close relatives.” (Undocumented workers from Myanmar)

59% of respondents reported losing their jobs during the pandemic, with **construction workers (75%) impacted most severely**. The data also shows that more male workers (66%) lost jobs than female workers (52%).

- **Employment contract**

The majority of migrants from Myanmar working in Thailand do not possess contracts. Only around 10% of respondents had contracts with basic clauses such as working conditions and wages, type of work, housing and living conditions, provision of visa, work permit, and insurance.

34% of workers who possessed contracts lost their job during the pandemic, while significantly more of those without a contract (68%) lost their jobs. All workers with a contract reported receiving a promised salary as per the contract, which demonstrates the importance of the contract in this cross-border movement.

- **Grievance redressal**

Only 2% of respondents filed a grievance, mostly with NGOs or their employers, while 34% shared that they did not file a complaint because of their irregular status. This increased to 40% among agricultural workers and 75% of domestic workers. A few respondents indicated that **their lack of awareness and fear of retaliation from employers influenced their decision not to complain.**

IMPACT OF WAGE THEFT AND FORCED LABOUR ON MIGRANT FAMILIES

I got infected with Covid during the second wave. My wife was working in a restaurant when she was infected by the virus. Both of us have been quarantined and couldn't work for almost a month. Before we were sick, we had casual work, on-and-off. We earned enough for rent and daily expenses. After contracting COVID-19, we had no money left, not even for rent, so we had to borrow from relatives. Once the situation began to improve I went back to work. My wife was pregnant then so I had to pay for extra expenses and we needed to save money whenever possible. We just eat whatever food is available to us. On days off from my regular job, if someone asked me to collect avocados then we go, which brought some income to share room expenses. We need to save more for renewing our identity documents and the birth of our baby.

- Myanmar migrant worker in Thailand

6. Policy responses during the pandemic

At the start of the pandemic, the target countries introduced various containment measures such as movement restrictions and border control to curtail the spread of the virus. Support was provided for healthcare, information dissemination, social protection, provision of safe working environments, food and accommodation, emergency relief, access to justice and provision for job opportunities in the revival phase.²⁷ However, in general migrant workers did not have equal access to such services in the countries of their work and the support provided was not coordinated across the region. A brief summary of the measures is outlined below.

6.1 Mobility controls

Malaysia was one of the first ASEAN Member States to implement mobility control measures. A movement control order (MCO) introduced in March 2020 led to closure of international borders and non-essential business (ILO 2020a). The MCO was intensified at various points throughout the pandemic, restricting the operation of the majority of industries. It also led to several raids at labour camps that lacked basic amenities even before the pandemic²⁸. By April 2020, other ASEAN Member States including Vietnam and Singapore had imposed mobility restrictions and contact-tracing measures to contain the spread of COVID-19 (Caroll 2020). The Thai Government announced mobility restrictions from March 2020, which prevented the entry of foreign nationals and banned public gatherings²⁹. The almost 10 million migrant workers in the ASEAN region were therefore affected by the containment measures and many were forced to stay in their respective countries of destination without employment or an income.

6.2 Provision for testing, vaccine and healthcare

Most ASEAN Member States including Thailand, and initially, Malaysia provided free COVID-19 testing and treatment for migrant workers. The Thai Government has extended universal healthcare coverage schemes to all migrants and their families regardless of migration status since 2005. In accordance with this policy, migrants, including those who contracted the virus, were eligible for the free treatment at public and private hospitals (UNWomen 2020). The Malaysian Government announced that all migrants including undocumented workers, refugees and asylum-seekers, would be provided with free testing and treatment for COVID-19. Even though the government provided assurances that those who requested to access such services would not be arrested nor requested to provide documents, many workers especially undocumented migrants were arrested and denied access to healthcare services. This created fear among undocumented migrants of accessing the services. Using the PhilHealth (Philippine Health Insurances Corporation) packages, the Philippines Government supported returnees during the pandemic (ILO 2020d). The packages included COVID-19 testing and quarantine packages for vulnerable returnee migrants.

Similarly, Cambodia, Vietnam and Lao PDR, funded the testing and treatment of workers using special financial packages, as announced by the respective governments (ILO 2020b).

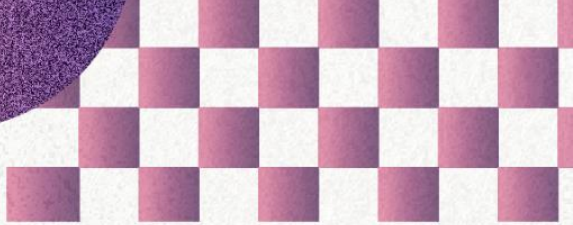
Apart from access to health services, migrant worker's access to vaccines was limited at least in the initial stages of vaccination. Among the countries of destination, Thailand included migrants and refugees in their national vaccination deployment plans. Vaccines were provided to migrants free of charge by many stakeholders, including the Ministry of Public Health, the Chulabhorn Royal Academy, and the Thai Red Cross³⁰. NGO and media reports however indicated that migrants,

²⁷ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_816971.pdf

²⁸ Retrieved from "The outbreak of COVID-19 in Malaysia: Pushing migrant workers at the margin", available at <https://www.sciencedirect.com/science/article/pii/S2590291120300620>

²⁹ <https://www.unicef.org/thailand/media/5071/file/SocialImpactAssessmentofCOVID-19inThailand.pdf>

³⁰ <https://www.who.int/thailand/news/detail/23-03-2022-thailand-s-migrant-vaccination-programme-ensures-no-one-is-left-behind>



especially undocumented and seasonal workers, did not receive vaccines³¹. The Thai Government subsequently announced that all migrant workers from Cambodia, Laos and Myanmar working in Thailand had to have legal working documents to receive the Covid-19 vaccine³². In February 2021, Malaysia extended free vaccination to migrants including students, refugees and undocumented migrants³³. Yet migrant populations, especially the undocumented migrants continued to be afraid of retaliation and being arrested, a fear that was compounded by government raids on accommodation where migrants lived³⁴.

6.3 Efforts to ensure access to information

Migrant workers faced various challenges in accessing reliable information during the pandemic. These challenges included lack of access to phone and internet connection, language barriers in destination countries, and geographic isolation in certain sectors (for example, domestic workers, plantation workers, workers on fishing boats). The absence of access to reliable information often prevented migrant workers from accessing healthcare services and other essential services in both countries of destination and countries of origin. The Malaysian government established a COVID-19 hotline for both employers and employees and provided information on labour laws and mobility restrictions (ILO 2020a). To address the communication barriers, the government disseminated multilingual brochures to raise awareness and hosted public meetings in specific industries where migrants are most vulnerable. The Indonesian Government used the services of labour attaches to raise awareness and understanding of the pandemic among Indonesian workers' communities in destination countries.

6.4 Social protection

Migrant workers are largely excluded from accessing social protection benefits at work in the target countries studied. However, during the pandemic, some countries offered social protection for returnee migrants to reduce their vulnerability and assist in their reintegration. Once movement restrictions were enforced in major countries of destination, the Philippine Government offered a one-time cash payment of USD200 from the Workers Welfare Fund (ADB 2020). The Cambodian Government introduced an economic stimulus package and extended to Cambodians working abroad, however many migrants and their families missed out on the assistance due to difficulties in registering while working abroad. The Indonesian Government expanded its conditional cash transfer programme (ILO 2020e) and Affordable Food Program for poor households, and sent relief packages to migrant workers in Malaysia. While social protection schemes such as cash transfers to poor households were expanded during the pandemic, many migrants may have missed out due to the lack of information.

In countries of destination in ASEAN, migrant workers are often excluded from employment benefits, subsidies and other support. An exception is Thailand's unemployment insurance scheme that migrants can access, however only workers in the formal sector are eligible to apply. This scheme requires employers to contribute, but as most do not, the migrant workers who work for them cannot access such insurance in practice. During the pandemic the Thai Government announced social security benefits for all workers who were affected - both Thai citizens and foreigners. Normally, unemployment covers half of a worker's wages for up to six months if they are laid off and 30% of their wages for up to three months if the worker resigns³⁵. However, the majority of the workers in Thailand and Malaysia had to rely on emergency service provisions due to lack of social protection in those countries.

³¹ <https://www.aljazeera.com/news/2021/9/14/thailand-migrants-plead-for-vaccines-as-covid-takes-lives-jobs>

³² <https://www.business-humanrights.org/en/latest-news/cambodia-cambodian-migrant-workers-in-thailand-must-show-work-permit-to-get-vaccinated-while-undocumented-workers-vaccination-is-in-limbo/>

³³ <https://www.reuters.com/business/healthcare-pharmaceuticals/malaysia-offers-covid-19-vaccinations-foreign-residents-undocumented-migrants-2021-02-11/>

³⁴ <https://www.hrw.org/news/2021/06/30/malaysia-raids-migrants-hinder-vaccine-access>

³⁵ <https://home.kpmg/xx/en/home/insights/2020/04/singapore-government-and-institution-measures-in-response-to-covid.html>



6.5 Interventions to address wage-related issues and other labour rights violations

Employers facing financial challenges during the pandemic often passed that burden to employees, for example, by not paying their wages on time, withholding wages and end of service benefits.

Apart from wage-related issues, labour rights violations were reported during the pandemic period. Numerous reports of forced labour in Malaysia were made, some in relation to sectors of critical importance to the global pandemic responses such as rubber glove production. Migrant workers producing the gloves reportedly experienced labour violations as well as noncompliance with MCO rules in the workplace, including with regards to social distancing, occupational safety and health, working hours, forced labour, and living conditions ³⁶.

6.6 Access to justice

Governments in the countries examined in this study are yet to ensure access to justice for victims of wage theft and forced labour during the pandemic. However, many NGOs and pro bono lawyers provided legal aid to migrant workers who experienced unfair dismissal or labour rights violations during the COVID-19 pandemic. For example, the Malaysian Trade Union Congress (MTUC) offered assistance to retrieve unpaid wages and to address unfair termination and forced labour (ILO 2020a). The Bar Council of Malaysia through its Migrants, Refugees, and Immigration Affairs Committee (MRIAC) — published the first comprehensive study on access to justice for migrant workers in Malaysia, entitled *Migrant Workers' Access to Justice: Malaysia*, in 2019 and a summary was published in 2021³⁷. Both reports evaluate the country's existing access to justice mechanisms for both documented and undocumented workers. The effort helps the stakeholders to gain a better understanding of the existing system.

The ILO-supported Migrant Workers Resource Centres (MRCs) offer legal aid and counselling for migrant workers in ASEAN Member States such as Cambodia, Malaysia, Thailand, and Vietnam.

Overall, policy interventions by governments in countries studied for migrants during the pandemic do not appear to have been sufficient to address the incidence of forced labour and wage theft. Apart from basic support, such as access to health care and other emergency relief support, governments did not ensure access to social protection, justice and redress to retrieve unpaid wages.

³⁶ <https://cadmus.eui.eu/bitstream/handle/1814/70316/MigResHub%20think%20piece%20No%202.pdf?sequence=1>

³⁷ <https://www.malaysianbar.org.my/article/about-us/committees/migrants-refugees-and-immigration-affairs-committee/migrant-workers-access-to-justice-in-malaysia-launch-of-report-27-sept-2019#:~:text=The%20Migrant%20Workers%20Access%20to,workers%20who%20have%20been%20wronged.>

7. Reproduction of existing vulnerabilities: Reflections

The data indicates that **migrants in the countries studied experienced increased vulnerability to forced labour situations as a result of the pandemic**. The high incidence of wage theft worsened their working and living conditions during employment and upon return to their home countries.

7.1 The correlation between the incidence of wage theft and indicators of forced labour

The correlation between the incidence of wage theft and other indicators of forced labour was evident from the migrant responses. The migrant workers who experienced wage theft during the pandemic also reported other concerns that align with forced labour indicators. The specific indicators include:

- **RESTRICTION OF MOVEMENT AMONG VICTIMS OF WAGE THEFT**

During the pandemic, a high correlation between mobility restrictions and wage theft was observed. In the Indonesian context, 86% of the victims of wage theft had experienced mobility restrictions, 10% of whom stated that they did not file complaints due to mobility restrictions in destination countries. Among returned Cambodian who were victims of wage theft, 63% of the workers experienced movement restrictions. For returned Filipino migrant workers, 95% of the victims of wage theft experienced mobility restrictions.

- **INTIMIDATION AND THREATS**

Victims of wage theft faced various forms of intimidation and threats from employers during the lockdown. 48% of victims of wage theft from Indonesia reported that they experienced threats and intimidation from the employer. 38% of the victims of wage theft reported that false charges such as robbery and violation of contracts had been made against them. In Malaysia, 44% of the migrant workers who faced wage theft did not file a complaint due to the fear of retaliation from the employer.

- **ABUSIVE WORKING AND LIVING CONDITIONS**

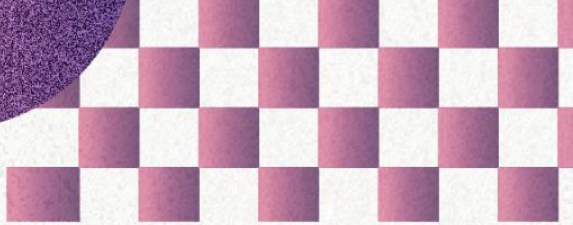
Workers did not receive adequate food and accommodation during the pandemic. Among the returned Indonesian workers who faced wage theft, 23% did not have accommodation and 28% did not have regular food supplies during the pandemic. Among workers in Malaysia who experienced wage theft, 20% did not receive adequate food during the pandemic. Among Myanmar migrant workers in Thailand, 50% of the wage theft victims did not receive regular food and accommodation during the pandemic compared to pre-lockdown period.

- **RETENTION OF IDENTITY DOCUMENTS**

The confiscation of passports and other identity documents is a common practice by employers of migrant workers to maintain control over workers. During the pandemic, some employers did not release identity documents even when they did not offer regular wages and employment. According to victims of wage theft in Malaysia, 41% of respondents had their passports confiscated, while 30% of returnees to the Philippines did not receive their identity documents when they made formal requests prior to their return.

- **CHANGES IN WORKING HOURS**

Due to the lack of economic activity, workers experienced changes in working hours during the pandemic, which included victims of wage theft. Indonesian workers reported that 47% of the workers who faced wage theft experienced increase in working hours. This group of workers had to work longer hours without regular, or no, wages. 90% of victims of wage theft in Malaysia experienced changes in working hours during the pandemic, 60% of whom faced a reduction in



working hours. Among the 58% of returned Filipino migrant workers who experienced wage theft, 30% experienced increase in working hours. In Thailand, all victims of wage theft faced changes in their working hours and 75% had work reduced to alternate days.

- **PHYSICAL VIOLENCE**

Some victims of wage theft faced physical violence from the employers and recruiters when they sought payment of their wages. Among Indonesian workers who faced wage theft during the pandemic, 19% experienced physical violence from their employer, mostly among those employed in casinos. 13% of wage theft victims in Malaysia reported experiencing physical violence from the employers during the pandemic.

These indicators demonstrate that migrant workers who faced wage theft were often at significant risk of forced labour situations in the workplace.

7.2 Types of wage theft

Workers experienced different types of wage theft as delineated below³⁸:

- **False promises of payment and dues (5% of total respondents):** verbal agreements of payment of dues within a stipulated period after which workers could not claim as per the domestic laws.
- **Forced signing of agreements (3%):** employers forced some workers to sign an agreement that stated they received all dues and payments. In practice, however, workers often left destination countries empty-handed. Such agreements were signed a few days before the repatriation by threatening to withhold personal documents such as passports and certificates until the workers signed.
- **Unpaid and forced overtime (13%):** workers did not receive payment for extra working hours, especially during the pandemic. Instead, many of them worked extra hours with a reduced salary.
- **Absence of regular payment of wages (33%):** the most common form of wage theft, especially in the informal and domestic sectors.
- **Inappropriate deductions from benefits and dues (8%):** Some workers experienced deductions in the name of payments for medical check-ups, wages, health services, COVID-19 fees related and other facilities offered at the workplace.
- **False charges/cases made against workers (2%):** if workers asked for unpaid wages or entitlements, some employers filed false complaints such as theft, malpractice, that they attempted to change their employers illegally, or declared they had runaway.
- **Wage theft by recruitment agencies/brokers³⁹:** many workers, especially domestic workers had to stay at agency shelters during the pandemic where they carried out cleaning and other work. The agencies never paid for such services. Another form of wage theft by brokers is through the advance payment mechanism. Brokers received payment from employers due to the limited options for sending cash remittances to workers or their families during the pandemic, but then rarely transfer the money to migrant families.
- **Withholding of wages to prevent workers leaving:** employers stopped paying the regular wages to prevent migrant workers leaving during the pandemic.

³⁸ The categories of wage theft are identified from both quantitative and qualitative inferences. Categories captured from the in-depth interviews with the workers do not have percentages.

³⁹ 'Wage theft by recruitment agents and withholding of wage to prevent workers leaving' are identified from the qualitative inferences from the in-depth personal interview with respondents.



7.3 Factors influencing the incidence of forced labour and wage theft

The findings show that wage theft cannot be addressed separately from the issue of forced labour. Several variables that connect wage theft and forced labour are identified from the survey results.

A key contributor to vulnerability to wage theft and forced labour is the lack of policy coherence in the countries of origin and countries of destination, both between and within countries.

There is both substantial supply and demand for workers across borders in Southeast Asia and policies are required to recognise and manage this. Expensive and difficult formal migration processes fuel the irregular movement of people in the region. As per the data, workers who migrated through irregular channels or who became irregular at the destination country were more prone to forced labour and wage theft. The irregularity in the migration process correlated with a lack of information on various aspects of migration such as the recruitment process, rights of migrant workers and labour contracts. The lack of information exposed migrants not only to wage theft but also to other vulnerabilities associated with forced labour.

Poor access to services is a feature of labour migration and this worsened during the pandemic. The lack of access to basic services, legal services, access to grievance mechanisms, and other government services during the pandemic impacted working and living conditions. The policies and programs offered by governments during the pandemic largely did not reach migrant populations, especially vulnerable populations such as undocumented workers, domestic workers and construction workers.

Another factor that influenced the incidence of wage theft was the **abuse of trust between the employer and the worker – this often led to violations of labour contracts, reduction in working hours and loss of jobs.** Another notable relationship was between debt bondage and wage theft. The research indicates that many employers used practices of 'debt bondage' to avoid payment of regular wages, especially for the domestic workers who do not have access to reliable information.

The limited responses from the governments and employers to address wage theft and forced labour situations are an important finding of the research. Migrant responses highlight the fact that there were efforts from governments to address the quarantine requirements, reintegration and access to health services. NGOs, including MFA's partners on this project - SBMI, Our Journey, LSCW, CMA and MAP - addressed various basic needs and concerns of migrants through service provisions. However, the research suggested that victims of wage theft and forced labour were not provided with support to address their situations.

8. The way forward and recommendations

The results underline that the incidence of wage theft and forced labour are highly correlated. To address wage theft and interlinked vulnerabilities that continue to contribute to wage theft and forced labour effective and integrated responses from governments and employers are required. In this context, the following recommendations are offered.

RECOMMENDATIONS

1. **Develop or improve complaint mechanisms for migrant workers to seek justice, without fear of retaliation, punishment, detention, or deportation.** Complaint mechanisms are an important channel for remedy of migrant workers' rights violations, as elaborated in the UN Guiding Principles on Business and Human Rights. Mechanisms should be accessible to migrant workers, then assessed for their effectiveness and continuous improvement.
2. **Increase access to information on migrant workers' rights protection and services provided by government and non-government through digital platforms.** A multilingual platform for intra-ASEAN migrants may be most effective for grievances to be registered and responded to across borders. Existing platforms for raising awareness or rights may be strengthened or diversified, including through radio and other outreach for wider coverage.
3. **Develop an ASEAN model standard labour contract** to reduce the incidence of forced labour and related violations.
4. **Support national and regional advocacy spaces** to raise the linkage of wage theft and forced labour.
5. **Develop or implement a framework similar to the ILO's Fair Recruitment Guidelines** to regulate the activities of recruitment agents and brokers in countries of origin and agencies at the destination countries, to reduce the incidence of forced labour caused by bonded labour⁴⁰.
6. **Strengthen or establish platforms of cooperation among government and non-government stakeholders** to coordinate responses to grievances, ensuring retrieval of unpaid wages and other benefits.
7. **Establish a forced labour referral mechanism in ASEAN**, which includes missions, representatives of the destination country, NGOs and regional observers, to report, refer, and monitor forced labour activities.
8. **Strengthen monitoring and reporting systems in missions of countries of origin** to document whether migrant workers have been paid their due wages and benefits upon termination of their employment contract.
9. **Establish a permanent transitional justice mechanism** at regional ASEAN level to respond to cases of wage theft⁴¹.
10. **Establish or strengthen compensation funds for workers** to receive unpaid wages and benefits, as well as provision of legal services by both missions and countries of destination.

⁴⁰ Progress towards this recommendation is already occurring in the region, yet may require stronger political will for implementation: https://www.ilo.org/asia/media-centre/news/WCMS_871125/lang--en/index.htm

⁴¹ For more information on transitional justice, please see MFA's policy brief:

<https://justiceforwagetheft.org/api/files/1603521715531k3h85e5xrio.pdf> and more background on transitional justice from OHCHR: <https://www.ohchr.org/en/transitional-justice>



REFERENCES

ADB (Asian Development Bank). 2020. "COVID-19 Impact on International Migration, Remittances, and Recipient Households in Developing Asia", ADB Brief No. 148.

Carroll, Aaron E. 2020. "Lesson from Singapore: Why We May Need to Think Bigger." The New York Times, 14 April.

ILO. 2020a. "COVID-19: Impact on Migrant Workers and Country Response in Malaysia", ILO Briefing Note.

_____. 2020b. "Social Protection Responses to the Covid-19 Crisis: Country Responses in Asia and the Pacific", 25 March.

_____. 2020c. "COVID-19 and the World of Work: Country Policy Responses – Thailand", available at: <https://www.ilo.org/global/topics/coronavirus/country-responses/lang--en/index.htm#TH>.

_____. 2020d. "COVID-19 and the World of Work: Country Policy Responses – Philippines", available at: <https://www.ilo.org/global/topics/coronavirus/country-responses/lang--en/index.htm#PH>

_____. 2020e. "COVID-19 and the World of Work: Country Policy Responses – Indonesia", available at: <https://www.ilo.org/global/topics/coronavirus/country-responses/lang--en/index.htm#ID>.

Mawby, B., & Martin, S. 2016. "Evacuation and repatriation of migrants in countries experiencing conflict or natural disaster. Geneva: Migrants in Countries in Crisis Initiative" Available at: <https://micinitiative.iom.int/resources-and-publications/evacuation-and-repatriation-migrants-countries-experiencing-conflict-or>

UN Women. 2020. "Addressing the Impacts of the COVID-19 Pandemic on Women Migrant Workers", UN Women Guidance Note.

