

# **WAGE THEFT & EXPLOITATION AMONG SINGAPORE'S MIGRANT WORKERS**

**POSITION PAPER**

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## INTRODUCTION

This paper details the various forms of wage theft and exploitation faced by low-wage migrant workers in Singapore. Wage theft refers to the “variety of infractions that occur when workers do not receive their legally or contractually promised wages”,<sup>1</sup> with the most common forms being the non-payment and underpayment of wages, including overtime wages. Other exploitative wage practices include wage discrimination, in which different nationalities of workers are paid different rates of pay for equivalent work, and wage manipulation, in which payment systems are deliberately obtuse and confusing, making salary claims needlessly onerous. Deceptive recruitment practices, including contract substitution, add to migrant workers’ wage woes and greatly complicate attempts to seek remedial justice.

### *Outline*

This paper begins with a brief section on methodology. We then provide information on Singapore’s tiered work pass system for foreigners, before moving on to core aspects of the legislative framework governing the employment of low-wage migrant workers. The paper then delves into the common forms of wage theft and other exploitative wage practices faced by migrant workers in Singapore as earlier cited. We conclude the paper with a set of policy recommendations.

### *Methodology*

The analysis and recommendations for this paper are based on a combination of sources. Foremost, we rely on the migrant worker cases HOME has handled over the years, and include particular examples from our case load to illustrate certain points. On top of a general overview of cases managed, we also include a more specific analysis of trends in wage-related cases handled by HOME from the period 2015 to 2016. This was done by examining HOME’s case files involving 2009 migrant workers from China, India, Bangladesh and Malaysia. The breakdown is as follows:

NATIONALITY	NUMBERS
Bangladesh	676
China	1208
India	100
Malaysian	25

When migrant workers approach HOME’s helpdesks for assistance, case work staff are responsible for interviewing the migrant workers and documenting these interviews using an electronic database. They are assisted by volunteers. Each interview lasts an average of 45 minutes, with more complicated cases requiring up to two hours. Workers may make multiple trips to HOME’s helpdesk to provide additional information and update the staff on the

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<sup>1</sup> Wage Theft, ‘What is Wage Theft’, <http://www.wagetheft.org/faq/> (accessed January 12, 2017).

progress of their claims. Emails are also sent to Ministry of Manpower (MOM) officials in order to provide support to workers for these claims.

Additionally, our empirical data is supplemented by available literature on migrant workers in Singapore, including academic literature as well as reports and articles from other migrant worker non-governmental organizations (NGOs) and rights-based organizations. We also cite news articles and media reports on migrant workers in Singapore as well as public documents from Parliamentary speeches to press releases issued by government agencies. While the focus is primarily on male Work Permit holders in industries such as construction and marine/shipping, examples from other sectors may also be provided where relevant.

### **BACKGROUND: SINGAPORE'S WORK PASS SYSTEM**

Low-wage work in Singapore is largely performed by migrant workers. As of June 2016, there were approximately 1.4 million foreign work pass holders in Singapore, of which 772,200 were low-wage migrant workers (hereafter migrant workers) in the construction, marine, manufacturing, process and services sectors. There were also 237,100 migrant domestic workers (MDWs) on work permits.<sup>2</sup> This paper, however, focuses on migrant workers in the non-domestic work sectors.<sup>3</sup>

The vital role migrant workers play in Singapore has been acknowledged by government officials, politicians and citizens alike. Most recognize that they perform jobs which many locals shun yet are integral to sustaining Singapore's economy. To manage the migrant worker population, the government has developed a tiered work visa system (known as the work pass system) which categorises employees in terms of their qualifications and salary earned. The highest category, known as the "Employment Pass" (EP) is "for foreign professionals, managers and executives". EP holders need to earn at least \$3,600 a month and have "acceptable qualifications". The S Pass, meanwhile, is for "mid-level skilled staff" who earn at least S\$2,200 a month and meet MOM's assessment criteria. Low-wage workers, or those who have been categorised as "semi-skilled", are issued a "Work Permit" (WP); there is no minimum wage requirement.<sup>4</sup> This paper will focus on migrant workers issued with such work permits, who make up the majority of the cases seen at HOME's helpdesks.

Singapore's immigration laws impose certain restrictions and regulations on WP holders and their employers. Under the work pass system, employees on work permits are not allowed to switch employers freely; their legal status in the country is contingent on their employer-sponsored work permits. This limited job mobility and high dependency on employers makes it difficult for them to assert their employment rights or file complaints against employers as job loss is a real fear and likely outcome. Their diminished bargaining power vis-à-vis

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<sup>2</sup> Ministry of Manpower, "Foreign workforce numbers", <http://www.mom.gov.sg/documents-and-publications/foreign-workforce-numbers> (accessed January 12, 2017).

<sup>3</sup> Migrant domestic workers are also hired on employer-sponsored Work Permits. However, in terms of legislative protection, they are excluded from the Employment Act and the Work Injury Compensation Act. Moreover, their employment context differs because of their compulsory live-in situation and the MDW recruitment system, in which employers pay recruitment agents and then deduct the "loan" from the domestic worker's monthly salary until it is paid off, a process which could take up to ten months, during which time they receive little or no salary. HOME intends to publish a separate position paper on MDWs.

<sup>4</sup> Ministry of Manpower, "Work passes and permits", <http://www.mom.gov.sg/passes-and-permits> (accessed January 12, 2017).

employers is exacerbated by the hefty recruitment fees most pay for their jobs in Singapore. Migrant workers typically pay recruitment fees that can range from S\$3000 to S\$15,000 for the opportunity to work here;<sup>5</sup> the amount of recruitment fees paid differ according to a worker’s nationality, occupation and whether they have previously worked in Singapore.<sup>6</sup>

**Table 1. Approved source countries for work permit holders**

SECTOR	APPROVED COUNTRIES
<b>CONSTRUCTION</b>	<ul style="list-style-type: none"> <li>Malaysia</li> <li>People’s Republic of China (PRC)</li> <li>Non-traditional sources (NTS): India; Sri Lanka; Thailand; Bangladesh; Myanmar; Philippines</li> <li>North Asian sources (NAS): Hong Kong (HKSAR passport); Macau; South Korea; Taiwan</li> </ul>
<b>MARINE</b>	<ul style="list-style-type: none"> <li>Malaysia</li> <li>People’s Republic of China (PRC)</li> <li>Non-Traditional Sources (NTS): India; Sri Lanka; Thailand; Bangladesh; Myanmar; Philippines</li> <li>North Asian Sources (NAS): Hong Kong (HKSAR passport); Macau; South Korea; Taiwan</li> </ul>
<b>SERVICES</b>	<ul style="list-style-type: none"> <li>Malaysia</li> <li>People’s Republic of China (PRC)</li> <li>North Asian sources (NAS): Hong Kong (HKSAR passport); Macau; South Korea; Taiwan</li> </ul>
<b>MANUFACTURING</b>	<ul style="list-style-type: none"> <li>Malaysia</li> <li>People’s Republic of China (PRC)</li> <li>North Asian sources (NAS): Hong Kong (HKSAR passport); Macau; South Korea; Taiwan</li> </ul>
<b>PROCESS</b>	<ul style="list-style-type: none"> <li>Malaysia</li> <li>People’s Republic of China (PRC)</li> <li>Non-traditional sources (NTS): India; Sri Lanka; Thailand; Bangladesh; Myanmar; Philippines</li> <li>North Asian sources (NAS): Hong Kong (HKSAR passport); Macau; South Korea; Taiwan</li> </ul>

**Source: Ministry of Manpower<sup>7</sup>**

Employers of work permit holders, meanwhile, are required to purchase a S\$5000 security bond through a banker’s guarantee. This is necessary for each non-Malaysian WP holder they hire. In the event that the employer fails to repatriate a worker to his or her country of

<sup>5</sup> This range was obtained from HOME’s case files.

<sup>6</sup> There are nationality-based differences in recruitment fees, which also vary depending on which sector the worker is placed. Migrant workers who are coming to Singapore to work for the first time tend to pay higher fees; this is sometimes related to the mandatory training involved (such as in the construction sector). In HOME and TWC2’s 2010 report, *Justice Delayed, Justice Denied*, our interviews showed that Indian migrant workers paid between S\$6,000 to S\$7,000 in recruitment fees, while Bangladeshi migrant workers paid between S\$8,000 to S\$10,000. For Chinese migrant workers, those in construction paid between S\$3,000 to S\$7,000, while Chinese migrant workers in the service sector paid significantly higher recruitment fees that ranged from S\$8,000 to S\$10,000. There are indications, however, that recruitment fees are rising, particularly for Bangladeshi migrant workers. See HOME and TWC2, *Justice Delayed, Justice Denied: The Experiences of Migrant Workers in Singapore* (Singapore: HOME & TWC2, 2010), 6.

<sup>7</sup> See the following pages on the Ministry of Manpower’s website: “Construction sector: Work Permit requirements”, <http://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/sector-specific-rules/construction-sector-requirements>; “Marine sector: Work Permit requirements”, <http://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/sector-specific-rules/marine-sector-requirements>; “Services sector: Work Permit requirements”, <http://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/sector-specific-rules/services-sector-requirements>; “Manufacturing sector: Work Permit requirements”, <http://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/sector-specific-rules/manufacturing-sector-requirements>; “Process sector: Work Permit requirements”, <http://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/sector-specific-rules/process-sector-requirements> (accessed January 12, 2017).

origin, or a work permit holder “goes missing”, the bond may be forfeited by the authorities.<sup>8</sup> The number of work permit holders a company is allowed to hire is regulated by a “dependency ceiling” or “quota”. Each industry will be allotted a fixed percentage of foreigners its employers are allowed to recruit and this is usually pegged to the number of Singaporeans it has in its work force. The dependency ratio in the construction sector, for example, is 87.5 percent.<sup>9</sup> Demand for migrants is further regulated by a “foreign worker levy” (FWL), which is a monthly tax an employer has to pay to the government for every migrant worker they employ. The levy can range from S\$250 per month to S\$950 per month for every worker hired.<sup>10</sup> Additionally, the country from which an employer is allowed to recruit a migrant worker on a work permit is determined by the government. Table 1 (see page 6) shows the “approved source countries” for the various industries.

### **LEGISLATIVE FRAMEWORK**

The payment of wages is regulated by the *Employment Act (EA)* and the *Employment of Foreign Manpower Act (EFMA)*.<sup>11</sup> Some of the key provisions of this law relevant to work permit holders (with the exception of foreign domestic workers, who are excluded from the EA) include:

- 1) Employees have to be paid their basic salary within seven days of the employment period. Overtime wages has to be paid within 14 days of the employment period. An employment period cannot be more than a month.
- 2) All work done in excess of 44 hours a week should be remunerated at a rate which is 1.5 times the basic rate of pay.
- 3) All work done on rest days and requested by the employer shall be remunerated at a rate which is double the basic rate if the employee is required to work more than half the normal hours of work.
- 4) Employees are entitled to paid public holidays. If an employee works on a public holiday, s/he should be entitled to salary which is twice the basic rate, or granted off in lieu.
- 5) If the employer is unable to provide work for a period of time, the foreign employee should still be paid at the basic rate of pay for each day that work is not given.

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<sup>8</sup> Ministry of Manpower, “Security bond requirements for foreign worker”, <http://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/sector-specific-rules/security-bond> (accessed January 12, 2017).

<sup>9</sup> Ministry of Manpower, “Schedule of foreign worker levy changes”, [http://www.mom.gov.sg/~media/mom/documents/services-forms/passes/schedule\\_of\\_levy\\_changes.pdf](http://www.mom.gov.sg/~media/mom/documents/services-forms/passes/schedule_of_levy_changes.pdf) (accessed January 12, 2017).

<sup>10</sup> Ministry of Manpower, “Schedule of foreign worker levy changes”, [http://www.mom.gov.sg/~media/mom/documents/services-forms/passes/schedule\\_of\\_levy\\_changes.pdf](http://www.mom.gov.sg/~media/mom/documents/services-forms/passes/schedule_of_levy_changes.pdf) (accessed January 12, 2017).

<sup>11</sup> See Ministry of Manpower, “About the Employment Act” (<http://www.mom.gov.sg/employment-practices/employment-act>) and “Employment of Foreign Manpower Act” (<http://www.mom.gov.sg/legislation/employment-of-foreign-manpower-act>) (accessed January 12, 2017).

- 6) If an employer decreases an employee's basic monthly salary or increases fixed monthly deductions from what has been declared in the work pass application, the employer has to notify the Ministry of Manpower.
- 7) An employer is allowed to make deductions from an employee's salary for the following services provided: accommodation, food, utilities, and other services provided by the employer which the employee accepts. Deductions are also allowed in the event an employee damages goods and other assets belonging to the company. All deductions cannot exceed more than 25 percent of the worker's salary.

### ***In-principle approval letters***

An in-principle approval letter (IPA) is issued to an employer and a migrant employee when an application for a work permit is successful.<sup>12</sup> An employer is supposed to ensure the migrant worker receives a copy of the IPA in his or her native language before the worker arrives in Singapore. In February 2013, the Ministry of Manpower made several changes to the IPA letters which provided workers more information about their employment terms and conditions before arriving in Singapore. Employers were required to declare their employee's basic salary, allowances (if any), deductions made to their salary for food and accommodation, fees charged by the Singapore agent and whether housing would be provided. This information may be used in the event of a dispute between the worker and the employer.

### ***Key employment terms***

Following a review of the Employment Act, amendments were implemented on 1 April 2016 that required employers to issue key employment terms (KETs) and itemized pay slips to any employee covered by the EA.<sup>13</sup> Key employment terms that should be provided in writing: job title and duties; duration of employment; working arrangements such as working hours, working days and rest days; salary period; basic salary as well as allowances and deductions (if any); and, overtime rate of pay.<sup>14</sup> The amendment also includes the establishment of an "administrative penalty framework to make less severe breaches of the Employment Act (EA) non-criminal"; this includes breaches such as the failure to provide itemized payslips and written KETs.<sup>15</sup> Failure to abide by these requirements could attract financial penalties, but there will be no criminal record. The Ministry of Manpower has stated that companies will be given a grace period of one year from April 2016 to March 2017, in which the agency will adopt a "light touch enforcement approach" and focus on educating smaller business on compliance with these new requirements.<sup>16</sup>

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<sup>12</sup> Ministry of Manpower, "In-principle approval (IPA) for foreign worker", <http://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-worker/sector-specific-rules/in-principle-approval> (accessed January 12, 2017).

<sup>13</sup> Ministry of Manpower, "Amendments to the Employment Act", <http://www.mom.gov.sg/employment-practices/employment-act/amendments-to-the-act> (accessed January 12, 2017).

<sup>14</sup> Ministry of Manpower, "Contract of service", <http://www.mom.gov.sg/employment-practices/contract-of-service#key-employment-terms> (accessed January 12, 2017).

<sup>15</sup> Ministry of Manpower, "Employment (Amendment) Bill", <http://www.mom.gov.sg/newsroom/press-releases/2015/0817-employment-amendment-bill> (accessed January 12, 2017).

<sup>16</sup> Ministry of Manpower, "Employment (Amendment) Bill, 2015, Second Reading Speech", <http://www.mom.gov.sg/newsroom/speeches/2015/0817-employment-amendment-bill-2015-second-reading-speech> (accessed January 12, 2017).

## **WAGE PROBLEMS FACED BY MIGRANT WORKERS**

### ***Wage depression and wage discrimination***

Based on data obtained from HOME's case work files over the past year, construction workers from Bangladesh and India typically earn between S\$18 per day (\$2.25 per hour), for those with two years or less of experience, to up to S\$30 per day (S\$3.75 per hour) for those who have been in Singapore for longer than that, usually ten years or more. In the most egregious cases, we have seen workers paid S\$2 or less per hour (or S\$16 or less per day). Construction workers from China who have not worked in Singapore before or have had only two years of experience or less typically earn between S\$40 per day (S\$5 per hour) to S\$64 per day (S\$8 per hour). Those with more years of experience may earn up to S\$10 per hour. Workers of both nationalities are usually engaged in the same type of work: welding, plastering, carpentry, tiling and electrical wiring. These wage differences according to nationality are entrenched in the industry, with no clear or viable explanation available.

Not only is there wage discrimination in the construction industry, wages also appear to be depressed. There is no legislated minimum wage in Singapore, whether for citizens or migrants workers.<sup>17</sup> Left to market forces, however, the wage rates for migrant workers remain low and through longitudinal comparisons over time, there are indications of chronic wage stagnation,<sup>18</sup> despite increases in recruitment fees and inflationary pressures in terms of living costs in Singapore (primarily food and housing). In 1992, the average daily rate for construction workers ranged from S\$17 to S\$19 a day.<sup>19</sup> Twenty-five years later, in 2017, Bangladeshi construction workers who have just arrived are earning similar amounts of S\$16–\$19 a day. One construction worker who recently sought assistance at HOME, Sharif,<sup>20</sup> worked for 11 years for the same company and was earning between \$600 to \$700 a month the entire time. Construction workers from Bangladesh have indicated that if they stay with the same employer for several years, they may be given a \$1 increment to their salary rates. There are also cases of Bangladeshi workers earning much less. Reports have surfaced of Bangladeshi workers being paid S\$9 a day;<sup>21</sup> in one on-going case at HOME, Bangladeshi construction worker, Arif, has been receiving a monthly salary of S\$300 for the past five years.

Outside of the construction industry, indicators are that migrant worker labour in general is grossly under-valued and wage discrimination widely accepted. Bangladeshi conservancy workers in Singapore cleaning our HDB estates earn basic monthly salaries of S\$450. While they work long hours and take on the more strenuous cleaning tasks, their wages are considerably lower than local cleaners, whose salaries have been increased to at least S\$1000

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<sup>17</sup> Ministry of Manpower, "Is there a prescribed minimum wage for foreign workers in Singapore", <http://www.mom.gov.sg/faq/work-permit-for-foreign-worker/is-there-a-prescribed-minimum-wage-for-foreign-workers-in-singapore> (accessed January 12, 2017).

<sup>18</sup> TWC2's "Work History Survey", released in June 2016, found that "[s]tarting basic salaries for first-time workers from India and Bangladesh appear to have remained more or less constant since 2006, fluctuating within the range of \$546 to \$629 per month on average". See TWC2, "Work History Survey", June 2016, [http://twc2.org.sg/wp-content/uploads/2016/12/work\\_history\\_survey\\_v3.pdf](http://twc2.org.sg/wp-content/uploads/2016/12/work_history_survey_v3.pdf) (accessed January 24, 2017).

<sup>19</sup> Charanpal Singh Bal, *Production politics and migrant labour regimes: guest workers in Asia and the Gulf* (London: Palgrave Macmillan, 2016), 38.

<sup>20</sup> Pseudonyms have been given to all workers whose cases are mentioned in this paper.

<sup>21</sup> TWC2, "How low can a salary go?", January 25, 2012, <http://twc2.org.sg/2012/01/25/how-low-can-a-salary-go/> (accessed January 24, 2017).

a month under the Progressive Wage Model.<sup>22</sup> Meanwhile, the salaries of foreign healthcare assistants or attendants in Singapore's nursing homes may start at S\$350 (for those with no nursing training) to S\$510;<sup>23</sup> migrant cleaners in commercial buildings may earn S\$500 in basic monthly basic wages. Comparatively, the cost of housing has increased to about \$270 for a single bed space plus utilities at a purpose-built dormitory;<sup>24</sup> food costs can range from S\$120 to S\$130 for catered meals, and S\$150 if workers split the costs among a small group and cook their own meals. Telecommunication, essential for migrant workers far away from home, could add another S\$100 to their monthly expenses. Recruitment fees, meanwhile, continue to increase;<sup>25</sup> a trend noted by other NGOs, who have reported cases of Bangladeshi construction workers paying a total of between S\$10,000 to S\$16,000 in recruitment and placement fees, though basic salaries range from S\$468 to \$600.<sup>26</sup>

### ***Unpaid or late payment of wages***

The problem of unpaid, short payment or late payment of wages is a prominent problem faced by migrant workers. Between 2015–2016, 51.4 percent of workers who approached HOME sought assistance for unpaid or late payment of wages. A common occurrence is the withholding of salaries, in which a migrant worker's salary is paid a month later (sometimes more) than when it is due. Employers may do this so that if a worker terminates his employment, his owed wages will either be forfeited or deductions will be made to significantly reduce the amount. Many employers justify not paying on time or paying late as a way to discourage workers from resigning or for making mistakes at work (for which penalties may be exacted from their outstanding wages).

As stated earlier, the Employment Act stipulates that workers should be paid their basic wage within seven days of the end of the salary period and overtime pay within 14 days, with a salary period defined as one month. Further, the Act also considers any failure to pay a worker's salary within these stipulated time periods a breach of contract. However, many employers will claim that workers have breached the terms of their contract if they choose to resign due to poor working conditions, despite the employer being guilty of failing to pay his/her employees on time in the first instance, and even when the required notice period has been served by the employee.

### ***Underpayment of overtime, rest day and public holiday pay***

Singapore law requires employers to pay workers 1.5 times the basic rate of pay for work done beyond 44 hours a week or eight hours a day. Yet 37 percent of workers of all nationalities told us that they were not paid the stipulated overtime rate, or were only paid

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<sup>22</sup> Nur Asyiqin Mohamad Salleh, "Over 40,000 cleaners will see basic pay go up by \$200 over next three years", *Straits Times*, December 12, 2016; Stephanie Chok, "Include migrant cleaners in Progressive Wage Model", *TODAY*, Voices, December 21, 2016, <http://www.todayonline.com/voices/include-migrant-cleaners-progressive-wage-model> (accessed January 12, 2017).

<sup>23</sup> Radha Basu, *Safe but soulless: nursing homes need a new narrative* (Singapore: Lien Foundation and Khoo Chwee Neo Foundation), 47, [http://www.lienfoundation.org/sites/default/files/SafebutSoulless\\_0.pdf](http://www.lienfoundation.org/sites/default/files/SafebutSoulless_0.pdf) (accessed January 12, 2017).

<sup>24</sup> A December 2016 online advertisement for a bed space at a purpose-built dormitory stated this price: <https://www.gumtree.sg/a-property-for-rent/boon-lay-jurong-tuas/tuas-south-dormitory-better-living-better-value-call-6291+4082-for-bookings/1001843344240911076738209> (accessed January 12, 2017).

<sup>25</sup> In 2015, a Bangladeshi conservancy worker told HOME that he paid S\$13,000 in recruitment fees for a two-year contract.

<sup>26</sup> Kimberly Ng, "Foreign workers chained by debt, governments have a moral duty to act", TWC2, October 16, 2016, <http://twc2.org.sg/2016/10/16/foreign-workers-chained-by-debt-governments-have-a-moral-duty-to-act/> (accessed January 12, 2017).

overtime wages from the 10th hour onwards instead of the 8th hour on a normal weekday. Employers are supposed to pay overtime rates from the 4<sup>th</sup> hour onwards for work done on Saturdays, but most only do so from the 8<sup>th</sup> hour onwards. Meanwhile, 30.5 percent of workers were not paid double the basic rate even though they worked full days on their rest days at the request of their employers. Twenty-nine percent were not paid twice the basic rate when they worked on public holidays; they were also not paid their basic wages when they did not work on public holidays (paid public holidays is an EA entitlement).<sup>27</sup>

Additionally, the majority of workers seen at HOME—an estimated nine out of 10 over the 2015–2016 period—are not given paid annual leave, an entitlement under the Employment Act; not only are they not given annual leave, this annual leave is also not encashed. Four percent of cases did not get paid sick leave.

### ***Fluctuating wages: the ‘no work no pay’ system***

Another way migrant workers are sometimes shortchanged of their legal entitlements is through the ‘no work no pay’ system. While the Employment of Foreign Manpower Act requires employers to pay a worker at his/her basic rate of pay even if the employer is not able to provide work, employers regularly do not do so (see Case Study 1).

#### **CASE STUDY 1**

Rahman, a Bangladeshi construction worker, arrived in Singapore in April 2016. He was only provided work on four days during that month. In May, his employer did not have any work for him. In June, his employer gave him work for 24 days. This was followed by a long period of no work till mid-August 2016, when his company tried to forcefully repatriate him through a repatriation company. HOME was asked to help and picked Rahman up from the airport. When Rahman filed a claim at the Ministry of Manpower, he was told by MOM that they will assist in recovering any unpaid salaries *only* for the days his employer had work for him. This meant salary could be recovered for only 28 days of work, despite Rahman having been in Singapore for almost five months on an employer-sponsored work permit. During this time, Rahman was asked to pay a monthly kickback to his employer to help cover the foreign worker levy payments to the government, an illegal practice as this is an employer obligation.

### ***Unauthorized wage deductions***

26% of workers who approached HOME shared that their employers make unauthorized deductions from their wages. There are various reasons employers make wage deductions and multiple strategies employed to mask deductions that are illegal. Typical deductions are for the foreign worker levy, work permit renewals, recruitment agent fees, insurance premiums, safety effects, breach of contract and “savings”. Employers may deduct S\$100 to S\$200 every month from a worker’s wages, until up to S\$1,000 or S\$2,000 in total has been deducted (see Case Study 2). While this deduction is often couched by employers as a form of “savings” which will be returned to workers at the end of a one or two year contract, it is used by employers as collateral to keep workers from resigning or from underperforming at work. This amount is forfeited when the worker chooses to leave his employment or when his

<sup>27</sup> Under the Employment Act, employees are entitled to 11 paid public holidays a year. According to the Ministry of Manpower, if employees are “required to work on a public holiday, your employer should pay you an extra day’s salary or grant you off in lieu”. See Ministry of Manpower, “Public holidays: entitlement and pay”, <http://www.mom.gov.sg/employment-practices/public-holidays-entitlement-and-pay> (accessed January 12, 2017).

employer is dissatisfied with his performance and terminates him. The deducted amount may also be arbitrarily forfeited at the end of an agreed-upon contractual period if the employer runs into cash flow problems. While “savings” is an unauthorized deduction under the EA, employers sometimes disguise illegal deductions by labelling them differently on salary slips, indicating, for example, that a deduction is for housing or a “loan” (allowable deductions), when in fact this is not true.

Another way employers may manipulate deductions is to promise workers that food and lodging will be provided as part of their job package. However, as these are allowable deductions, an employer may, at a later stage, decide to penalize a worker if there is any displeasure with him/her by making deductions from the worker’s salary and erroneously categorizing what are in fact financial penalties as “allowable deductions”. A significant number of workers also told us that their employers would deliberately record fewer hours of work on their time cards as punishment, for less hours recorded means less pay. This is another means to exact a financial penalty on workers without making outright deductions.

#### CASE STUDY 2

Zhu, a Chinese construction worker, had S\$200 deducted from his salary every month for five months as a “savings deposit” till a total of S\$1,000 was deducted. Additionally, though he worked from 8am to 9pm each day, his work hours on his time card were often recorded as 8am to 7pm, thus shortchanging him of two hours of wages each time. His employer also made salary deductions if he was displeased with Zhu’s work. When Zhu confronted his employer over his unpaid wages, they had an altercation, during which his employer fell and accused Zhu of violence. The employer subsequently dismissed Zhu and fined him S\$500 over the incident. When Zhu tried to claim back the S\$1,000 savings deposit, he was told that he would not be able to get it back because he did not complete his contract.

Cost-recovery practices by employers are another common yet illegal practice. “Kickbacks”, which refers to money demanded by employers as a condition for hiring migrant workers or for renewing their work permits, is illegal under the Employment of Foreign Manpower Act.<sup>28</sup> Yet it is a known practice and employers may demand sums of \$1,000 to \$2,000 to renew a migrant worker’s work permit when it is about to expire. If the migrant worker is not able to make an upfront payment, the kickback may be paid through monthly salary deductions.<sup>29</sup> While some recruiters and employers collect kickbacks for personal gain, kickbacks are also collected to defray the costs of hiring and providing for a migrant worker in Singapore, including the monthly foreign worker levy as well as other costs related to maintaining and insuring a company’s migrant workforce.<sup>30</sup>

<sup>28</sup> As stated in the Employment of Foreign Manpower Act (Chapter 91A), Employment of Foreign Manpower (Work Passes) Regulations 2012, Fourth Schedule, Part III, Section 10: “The employer shall not demand or receive any sum or other benefit from an employment agency or any other person in connection with the employment or change in employment of a foreign employee.”

<sup>29</sup> In this *Straits Times* article about the collection of kickbacks, it was reported that 29-year-old Bangladeshi construction worker Sadon Sarkar paid \$4,000 in recruitment fees to come to Singapore to work in 2008. His employer in Singapore further deducted S\$1,500 from his salary every year for three years, “as renewal fees for his work permit”. See Yeo Sam Jo, “Some who employ foreign workers still demand kickbacks”, *Straits Times*, April 13, 2015, <http://www.straitstimes.com/singapore/some-who-employ-foreign-workers-still-demand-kickbacks?> (accessed January 12, 2017).

<sup>30</sup> Bal, *Production Politics*, 37.

### ***Wage manipulation***

The Employment Act allows employers to remunerate workers in two ways: by number of hours worked or by the amount of work done (also known as the piece-rate method of payment). However, a lack of transparency about payment methods has resulted in 90 percent of construction workers from China who sought assistance at HOME in 2015–2016 being unsure about whether they were paid properly for overtime work and work done on rest days and public holidays. From HOME’s experience, we estimate that up to 90 percent of employers do not adhere to overtime payment methods stipulated by the Employment Act for construction work remunerated by the piece rate-method.<sup>31</sup> When challenged for an explanation on how wages are calculated, employers may resort to convoluted arguments or refer to contracts that stipulate multiple pay rates involving obtuse formulas and subjective criteria such as a worker’s attitude and the quality of work done.<sup>32</sup>

Since the introduction of the revised in-principle approval letters in 2014, HOME has seen large numbers of construction workers whose IPA letters indicate a lower basic salary than what is received by the workers. Nine out of 10 construction workers who approach us for assistance from China have this problem. For instance, a worker will be promised and paid a flat rate of S\$7 per hour regardless of the number of hours worked, but his IPA letter will indicate that his salary is S\$4 per hour. When a worker files a formal claim for non-payment or underpayment of wages, employers may use the lesser IPA-declared amount of S\$4 per hour during mediations, a rate the Ministry of Manpower will acknowledge as legitimate because it was declared in the IPA. This may be upheld even if salary vouchers and slips produced by workers (and even employers) indicate that the worker was paid at a flat rate based on the higher promised amount. Another way employers try to mitigate their legal obligations in terms of overtime payments is to declare a lower basic salary and inflating the amount declared under “fixed allowances” (see Case Study 3).

#### **CASE STUDY 3**

Liu, a Chinese construction worker, was meant to receive a monthly salary of around S\$1,400 a month—his IPA stated that his monthly salary was S\$1600, with a \$200 deduction for housing and amenities. However, his IPA also listed his basic salary as \$667, while his “fixed monthly allowances” was listed as \$933. By listing 60 percent of Liu’s monthly salary under “fixed allowances”, his employer significantly reduced his legal obligations, with Liu’s overtime pay rate essentially halved: overtime pay is calculated based on the basic rate of pay, excluding allowances. (The overtime pay rate if Liu’s basic salary is S\$1,400 is \$11 per hour; it becomes S\$5.25 per hour if his basic salary is S\$667.) This also affected his pay rate for work done on rest days, his public holiday pay, as well as medical leave wages when Liu suffered a workplace injury. Liu was shocked to discover this, for he had always believed his monthly salary was S\$1400, not realizing that the IPA breakdowns had implications for his overtime and other payments.

<sup>31</sup> The Ministry of Manpower stipulates that for piece-rated employees, their hourly rate of pay should be their total weekly pay at the basic rate of pay divided by the total number of hours worked in the week. Their overtime pay is thus this hourly rate of pay x 1.5 x number of overtime hours. See Ministry of Manpower, “Hours of work, overtime and rest days”, <http://www.mom.gov.sg/employment-practices/hours-of-work-overtime-and-rest-days> (accessed January 12, 2017).

<sup>32</sup> Cheryl Lim and Ning Jie, “Reading the fine print: how do you get paid?”, *Justice Without Borders*, April 28, 2015, <http://www.forjusticewithoutborders.org/rftp-payment-provisions/> (accessed January 12, 2017); Stephanie Chok, “Labour justice and political responsibility: an ethics-centred approach to temporary low-paid labour migration in Singapore” (PhD diss., Murdoch University, 2013), <http://researchrepository.murdoch.edu.au/22465> (accessed January 12, 2017), 259–302; Notes of Evidence, *Guo Wu Tang v CSC Enterprise (S'pore) Pte. Ltd.* (2014).

The ILO defines wage manipulation as “the payment of wages to a middleman, the payment of wages to a family member, the issuance of fines, or excessive deductions for food and lodgings. It also includes manipulation of wages in the sense that the individual is not able to exercise control and free disposition of his/her wages”.<sup>33</sup>

Financial penalties are a common means of threatening workers into compliance, and is often written into employment contracts. One construction company’s employment contract states that, other than on rest days and public holidays, if an employee is “absent from work without acceptable reason, deduction of \$50 per day will be made for absence from work [sic]”. Another construction company’s contract stipulates that migrant workers are to hand over their passports and work permits to the employer upon arrival in Singapore. Those who refuse to do so may be terminated and fined S\$1,000. In one extreme case, a construction company first refused to acknowledge a migrant worker’s resignation, then later sent him a Letter of Demand to recover course fees, “early termination charges” as well as cumulative fines for being “absent from work”; the fines totalled S\$16,000 (see Case Study 4).

#### CASE STUDY 4

Ahmed, a Bangladeshi construction worker, resigned from his job in early 2016, after 10 months of working for the company. Ahmed’s IPA declared a basic salary of S\$390, which should translate to a daily rate of \$16.30. However, he was only paid \$15 a day for six months. When the worker experienced back pain and requested to have it treated at the hospital, he was brought to a private clinic by his employer instead, where he was not issued a medical certificate. His employer then told him to rest in his dormitory, but later threatened to fine Ahmed for being absent from work. When Ahmed finally resigned, his company denied receiving his resignation notice. They had also (illegally) impounded his work permit and passport and refused to purchase a plane ticket for him. The company also hired a law firm to send Ahmed a Letter of Demand, claiming the following items: course fees (S\$973), notice in lieu (\$165), early termination charges (\$300), and penalties for “missing work” for 51 days. The fines for being absent from work were calculated at a rate of S\$50 for the first day, \$100 for the second day, \$200 for the third day, and \$300 from the fourth day onwards, leading to a total of S\$14,750 in fines just for being absent from work. When Ahmed did not show up in court (as he did not receive the writ of summons), a default judgment was entered against him, in which the sum demanded by the company had grown to S\$19,000 (including interest). Ahmed was, of course, unable to pay this amount and HOME eventually assisted him to return to Bangladesh. The judgement sum remains unpaid.

When migrant workers file claims for non-payment and underpayment of wages, these attempts at accessing remedial justice are severely hampered by the multiple ways employers manipulate wage payments and documentary evidence. Migrant workers are disadvantaged by their lack of evidence, or else have to contend with employers producing confusing, contradictory and, sometimes, fraudulent pieces of evidence, which may include IPAs, contracts, salary slips, and timecards.

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<sup>33</sup> International Labour Organization, “Details of indicators for labour exploitation—Indicators of exploitation”, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_105035.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105035.pdf) (accessed January 12, 2017).

### ***Deceptive recruitment and contract substitution***

Up to 20 percent of workers reported being deceived either by employers or agents about the salaries they would receive in Singapore. These were often in the form of verbal promises of higher salaries and better working conditions than what they experienced when they finally arrived in Singapore. Some were asked to sign contracts which were not in their native language under duress, for salaries which were lower than what was declared in their IPAs. Workers typically resist filing formal complaints against their employers for fear of losing their jobs after having paid thousands of dollars in recruitment fees. Those who decide to file complaints have told HOME that Ministry of Manpower officials are sometimes not willing to accept salary rates declared in the IPAs during mediations and prefer to conciliate the dispute based on a lower salary amount according to what an employer produces, whether it is a substituted contract or salary slips. Meanwhile, workers who wait “too long” before filing a salary claim may find themselves penalized for their compliance, as they could be judged to have “consented” to the lower rate by virtue of not having formally complained earlier (see Case Study 5).

#### **CASE STUDY 5**

Sohel, a construction supervisor with over ten years of experience working in Singapore, arrived in April 2015 to work for MBF Engineering (a pseudonym). His IPA stated a basic salary of S\$1600; there was no employment contract signed. However, when he was paid, his salary slips stated a basic salary of S\$850 a month; only when Sohel put in long overtime hours was he able to reach a monthly gross salary of S\$1600. When Sohel spoke to his employer about this, his employer insisted that \$1600 was his “fixed salary”, in which no additional payments for overtime will be made. However, if Sohel insisted on his legal entitlements such as overtime pay paid at overtime rates, his basic salary would only be S\$850.

Sohel finally filed a claim at the Ministry of Manpower in early 2016 to claim short payment and underpayment of salary. His claim amounted to about S\$15,000. During the mediation session, his employer offered S\$1,800. The case was not settled and went on to Labour Court. In July 2016, the Assistant Commissioner of Labour (ACL) who presided over the case decided that Sohel’s basic salary of S\$850 is correct, despite this not being the amount declared on his IPA. There were also inconsistencies in the company’s explanation of how they calculated Sohel’s salary and overtime payments, with the amount fluctuating month to month and overtime rates ranging from 1.5 times the basic rate of pay to 1.7 times, 2 times, and even 0.2 times (with the employer admitting in Labour Court, “I do not know when it was payable”).

The ACL accepted the employer’s explanation that he had fraudulently declared a salary of S\$1,600 on the IPA only to circumvent MOM’s work permit application system (as a lower salary declared on an earlier work pass application led to the application being rejected). The ACL further felt that because Sohel had worked for the company for 10 months and did not “protest”, there must have been *consensus ad idem* [a mutual agreement] between Sohel and his employer. This is despite Sohel alleging in Labour Court that he had approached his company’s human resource person several times and the person had promised to get back to him. Based on the ACL’s judgment and calculations, based on a basic salary of S\$850, Sohel was only to be awarded S\$1118 for short payment of salary. An appeal has been filed and the case is currently pending at the High Court as of January 2017.

11% of migrant workers also reported being deceived into irregular working arrangements in Singapore. They are illegally deployed to work in different companies within the same industries or have to work in companies in other industries. There are several ways this could happen. In the construction industry, this frequently involves “shell companies” or “supply companies”. By law, Work Permit holders are only allowed to work for the company listed on their work permit. However, in the construction industry, there is some leeway for work

permit holders to work for a different company under a subcontracting arrangement *if* a business contract is established with the original employer. Under such an arrangement, the original employer listed on the work permit is responsible for paying the worker's salary. With the cases seen at HOME, construction companies "supply" workers to other construction companies without establishing a legitimate business contract. The employers, however, assure the construction worker that they have a "special" arrangement with the authorities. Meanwhile, the construction workers are asked to pay between S\$10,000–S\$15,000 to the company—considered a kickback, which is illegal—but are assured they will be able to recover this cost quickly from performing casual work for other companies; they may be promised hourly rates of S\$15–S\$16 an hour, a high rate for a migrant construction worker. Sometimes, work permits are cancelled after a few months, without the worker's knowledge, leaving them even more vulnerable as they are not only working in an irregular situation, they no longer have a legal status. If the companies fail to pay them after a few months, they are subsequently unable to seek recourse from the authorities, who deem that they have engaged in "illegal work". Their original employer will usually also become uncontactable, leaving them in the lurch.

In other instances, employers of shell companies bring in workers for the sole purpose of profiting from collecting recruitment fees and kickbacks from them. After paying a recruitment fee, the migrant worker arrives to find that the company here does not actually have any jobs for them. They are then instructed to look for their own jobs, and are usually required to pay kickbacks every month to the company in order to retain their work permits. These workers are left with little choice but to comply with their employer's demands due to the hefty recruitment fees already paid. This leaves the men vulnerable to being further cheated, as they will be unable to seek remedial justice if they are not paid for their work; they are also susceptible to being arrested and charged for performing illegal work. Meanwhile, workers who file complaints to the Ministry of Manpower about paying kickbacks often have their claims dismissed because of insufficient evidence (see Case Study 6).

#### CASE STUDY 6

When Hossain, a Bangladeshi construction worker, arrived in Singapore, he was asked to pay S\$3,700 in kickbacks to a supervisor in his company, a fellow Bangladeshi. He was then asked to find his own work elsewhere as the company did not have a job for him. He was also required to pay a monthly kickback of S\$1,300 to his employer in order to keep his work permit status valid—he paid this in two instalments of around S\$500 to S\$800 each month. When he eventually suffered from a work injury, there were additional complications in filing a work injury claim as he was working at a site he was not supposed to.

Hossain also filed a claim at the Ministry of Manpower for the kickbacks he paid every month. However, as his employer demanded the money in cash, Hossain lacked the evidence to prove this payment. MOM also accepted the employer's explanation that any money paid to him was for services provided to Hossain.

#### ***Failure to comply with Labour Court orders***

When a salary claim is made at the Ministry of Manpower, an officer is assigned to the case and mediations are conducted between the claimant and the employer. If both parties decide to resolve the matter through mediation, a settlement is reached and payment is paid. However, if mediation is not successful, the claim is usually heard by the Labour Court. This

process may take several months; there have been cases that have stretched as long as nine months. Migrant workers who wish to appeal a Labour Court decision have to file the case at the High Court. However, whether or not they will be granted the legal status to stay on in Singapore for this is reliant on the Ministry of Manpower; in HOME's experience, workers are usually denied any extension of their Special Pass and are dependent on lawyers to represent them and enforce Labour Court orders.

Despite the protracted journey Labour Court can be for some workers, even after a judgment is issued in the worker's favour, an employer may choose not to pay up. The Ministry of Manpower, meanwhile, views the enforcement of judgment to recovery unpaid salary a "civil claim", and a "matter between the worker and the employer".<sup>34</sup> Workers then have to choose between a variety of costly and onerous options to enforce the order; in such cases, migrant workers often return home empty-handed. To enforce the order, a worker may have to hire a lawyer, which they can barely afford, especially if they are already owed months of unpaid wages. Other courses of action such as executing a writ of seizure and sale (which involves seizing and auctioning off a debtor's property) or a garnishee proceeding (which requires a migrant worker to recover the money from his/her employer's debtors) are also expensive and highly impractical.<sup>35</sup> These options require the migrant worker to pay hundreds of dollars upfront in administrative fees, and involve navigating complicated rules and procedures. Moreover, the company directors may have already removed their assets or transferred funds out of their accounts, thus rendering any attempts to utilize these options futile. HOME has also observed that some employers declare bankruptcy to avoid payment, only to set up a new company under another name to escape liability. It was recently revealed in Parliament that of the 1,400 Labour Court orders issued in favour of employees in the period 2015–2016, there were 350 default cases. According to the Minister of Manpower, these default orders involved 200 companies who were "mostly in financial difficulties or had ceased operations".<sup>36</sup>

## CONCLUSION

The wage problems faced by low-wage migrant workers in Singapore are wide-ranging and persistent. While the problems have been sorted into categories for this paper, in reality many workers who come to HOME for assistance experience multiple forms of wage theft and wage exploitation at any one time: unpaid wages for some months, short payment at other times, and unauthorized deductions throughout their employment. They may also be asked for kickbacks and are often not provided itemized pay slips, a copy of their employment contract (if there is one) or a full set of time cards. When migrant workers finally decide to file a formal claim, they may have to contend with the surfacing of different forms of documentation that may be incomplete, fraudulent, or contradict each other. Mediation

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<sup>34</sup> Toh Yong Chuan, "MOM: Salary recovery matters are civil claims", *Straits Times*, January 19, 2017, <http://www.straitstimes.com/singapore/mom-salary-recovery-matters-are-civil-claims> (accessed January 12, 2017).

<sup>35</sup> HOME and TWC2's report, *Justice Delayed, Justice Denied*, discusses in greater detail the difficulties migrant workers face in enforcing Labour Court orders. See HOME and TWC2, *Justice Delayed, Justice Denied*, 10.

<sup>36</sup> Ministry of Manpower, "Written answer by Mr Lim Swee Say, Minister for Manpower to Parliamentary Question on Labour Court Orders on Employee Salary Non-Payment, January 9, 2017, <http://www.mom.gov.sg/newsroom/parliament-questions-and-replies/2017/0109-written-answer-by-mr-lim-swee-say-minister-for-manpower-to-parliamentary-question-on-salary-non-payment> (accessed January 25, 2017).

processes, meanwhile, suffer from a lack of consistency and transparency, in which a swift settlement is prioritized. Claims that proceed to Labour Court, meanwhile, present another set of problems, including the inability for workers to enforce judgment orders, even if they win their case.

## **RECOMMENDATIONS**

### **1) Proactively prosecute employers who do not adhere to labour standards**

The Ministry of Manpower should develop strategic enforcement priorities and proactively target employers in high-violation industries. Our experience assisting migrant workers has shown that abuse of labour standards in the construction industry is particularly high. The government's preference in handling disputes is to adopt a conciliatory approach instead of meting out penalties to employers and bringing cases to court. Such approaches usually ignore the uneven bargaining power that workers have even in the presence of government officials. In the last two years, it has been quite common for HOME to see workers from the same companies filing similar complaints at the Ministry of Manpower.

### **2) Increase the powers of the newly formed Employment Claims Tribunal**

As earlier detailed, many migrant workers face difficulties enforcing judgment orders awarded in their favour. The forms of financial evasion earlier mentioned are possible because the Labour Court issues orders to pay workers, who cannot afford to enforce them. To address these difficulties, the newly formed Employment Claims Tribunal (ECT) should start issuing orders to pay the ECT directly, which will hold the funds in escrow to be disbursed to claimants.

Employers are less likely to default on payments to be made directly to the court, as failure to comply would result in a penalty. The ECT or an alternative administrative body should enforce the order on the worker's behalf, as the costs of doing so are prohibitive. We recognise that some bankrupt companies experience genuine financial difficulty. In such situations, HOME recommends that the MOM creates a fund for workers who are owed wages due to insolvency. HOME's Employment Claims Tribunal policy paper includes further recommendations.<sup>37</sup>

### **3) Exercise more oversight of companies who fail to pay wages but open up new ones**

The Ministry of Manpower should work more closely with the Ministry of Finance and the Accounting Regulatory Authority of Singapore to monitor companies who commit wage theft and do not honour settlement orders and Labour Court judgments. The authorities should ensure these companies and their directors are not allowed to set up new companies or hire further employees without having first paid off the debts owed to their employees.

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<sup>37</sup> HOME, "Recommendations for the new Employment Claims Tribunal", 2016, <http://www.home.org.sg/what-we-do/research/> (accessed January 25, 2017).

#### **4) Allow migrant workers to switch employers freely or extend TJS to those making salary claims**

Current regulations prevent migrant workers from seeking new employment while undergoing a salary dispute if employers cancel their work permits, which they often do in retaliation. This acts as a strong disincentive to migrant workers to pursue their claims, as they must wait out the dispute resolution process in Singapore without a job while on a Special Pass. This creates further financial hardship for migrant workers, who often shoulder large debts and tend to be the key breadwinner. Furthermore, even though employers are required by law to provide for migrant workers' meals and accommodation while their claims are being settled, they often fail to do so; law enforcement in this area is also weak.

Instead of limiting employment under the Temporary Job Scheme (TJS) to prosecution witnesses only, HOME recommends that TJS should be made available to all claimants as long as a *prima facie* case can be established. Alternatively, claimants under the same conditions should be allowed to access the Change of Employer (COE) scheme.

#### **5) Enact a law to combat discrimination in the workplace**

Our review of cases within the construction industry has shown that wage discrimination by nationality, in particular between South Asians and migrant Chinese construction workers is a significant problem. Workers from South Asia, in particular from Bangladesh and India, are paid significantly less than their counterparts from China despite the fact that they are doing similar jobs and have similar skills. Wage discrimination by nationality is also prevalent in other sectors of the economy, where Singaporeans are generally paid more than migrant workers. Within the domestic work sector, some nationalities are also paid higher wages. The Ministry of Manpower should review these practices and consider enacting an anti-discrimination law to combat unfair wage disparities. This will complement Singapore's commitment to battle racial discrimination, as evidenced in the Republic's signing of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 2015, which it is expected to ratify this year.<sup>38</sup>

#### **6) Step up employer education in industries with high rates of workplace violations**

We encourage the Ministry of Manpower, the Tripartite Alliance for Fair and Progressive Employment Practices and business interest groups to work in partnership with NGOs to raise awareness among employers in industries heavily dependent on migrant labour, in particular the construction industry. Funds should be allocated to these companies to implement progressive human resource practices which aim to strengthen labour standards and eliminate discrimination in the workplace. Their obligations under the Employment Act and Employment of Foreign Manpower Act should also be highlighted. MOM's WorkRight

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<sup>38</sup> "Singapore signs international convention against racial discrimination", *Channel NewsAsia*, October 20, 2015, <http://www.channelnewsasia.com/news/singapore/singapore-signs/2204686.html> (accessed January 25, 2017).

campaign, which currently focuses on the services sector, should extend its reach to the construction and marine industries, among others.<sup>39</sup>

### **7) Extend free legal aid for workers so they are prepared to make salary claims**

The complaints process relies heavily on individuals being able to learn what their legal rights are, how to apply them to their particular experience, and gather evidence to prove their claims. The Ministry of Manpower should consider working with the Law Society to extend legal aid to all low-wage migrant workers so they are prepared to file their complaints.

### **8) Review the process which places disproportionate burden on workers to provide proof for their claims**

Under Part XIII, Section 103, of the Employment Act, Powers of Commissioner and inspecting officers, the Commissioner is empowered to undertake or order investigations. However, from HOME's experience, during mediations for salary claims, these investigative powers do not seem to be utilized to recover the necessary evidence. Migrant workers who file claims often make the following complaints:

- a) Their claims are sometimes rejected due to their inability to produce the required evidence, evidence that employers are mandated to provide;
- b) When they file salary claims, they are asked to recover these forms of evidence on their own, with little regard of the practical challenges of doing so;
- c) Employers produce evidence that is forged or manipulated, and workers are then asked to "disprove" these forms of evidence.

We therefore make the following recommendations:

- a) If employers fail to produce the required evidence during salary disputes, for example itemized salary slips or work records, employers should be made to financially compensate the worker for the period claimed as a penalty for not maintaining proper records. This compensation amount should be at least equivalent to the basic salary payable to the worker for the period claimed.
- b) Where there are reasonable suspicions of evidence being forged or manipulated by employers, MOM should extend investigative assistance to migrant workers. If the employer is found guilty of forging or manipulating evidence to his advantage, there should be penalties.
- c) In salary disputes, where multiple, contradictory pieces of evidence are submitted by the employer stating different salary amounts and payment systems, the higher salary amount declared or received should be accepted during mediations and Labour Court.
- d) KETs should be included in the IPA letters so that migrant workers are clear about their key employment terms before they arrive. These terms should include the salary period, working hours, working days, rest days, overtime pay rate, annual leave, job scope, and notice period.

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<sup>39</sup> The MOM and CPF Board's enforcement efforts in relation to their WorkRight campaign have focused on industries such as food and beverage, retail, security and cleaning. MOM's WorkRight materials also demonstrate an emphasis on these same industries. See Ministry of Manpower, "WorkRight: know your employment rights", <http://www.mom.gov.sg/employment-practices/employment-act/workright> (accessed January 25, 2017); MOM, "Ten-fold increase in number of joint MOM & CPF board inspections from November", September 27, 2012, <http://www.mom.gov.sg/newsroom/press-releases/2012/tenfold-increase-in-number-of-joint-mom-cpf-board-inspections-from-november> (accessed January 25, 2017).