



ASIA PRO BONO VIRTUAL CONFERENCE & ACCESS TO JUSTICE EXCHANGE

"Celebrating a Decade of Collaboratively Strengthening Justice & Rule of Law"

23-26 September 2021



Migrant Issues from the Viewpoint of Countries of Origin and Countries of Destination – Pro Bono Support and Challenges



**MIGRANT WORKERS - PROBONO SUPPORT AND
CHALLENGES IN DESTINATION COUNTRIES IN ASIA**

25 September 2021

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SUPPORT



- Equal access to justice – right to file complaints in labour, civil and criminal courts
- Access to legal representation
- Access to legal aid (eg Malaysia – Bar Council Legal Aid scheme)
- Support of civil society organisation
- Support of foreign missions – high commission/embassies

Challenges



- ▶ Discriminatory immigration policies – cancellation of work permits, arbitrary deportation, deportation due to pregnancy or medically unfit
- ▶ Financial constraints to afford legal representation, pro bono may not be entirely free (eg in Malaysia and Singapore, disbursements and court cost needs to be paid by clients)
- ▶ Pro bono legal aid services is not mandatory (eg in Malaysia and Singapore). In Singapore, foreign law firms which are usually financially sound, are not allowed to do litigation and not able to provide free legal aid services. CSOs need to depend on smaller local firms
- ▶ Funds from embassies are small and they are selective in the cases they assist
- ▶ Migrant worker is not allowed to be employed whilst pursuing his legal redress
- ▶ Need to remain documented to pursue legal redress (eg in Malaysia – monthly special pass (USD25))
- ▶ High security of cost (to secure the presence of the migrant) is a deterrent
- ▶ Criminal cases - Securing bail and finding a bailor is very difficult. Migrant may need to remain in detention pending his case. Easy way out is to be guilty even if the migrant is innocent
- ▶ Undocumented workers access to justice is minimal (eg in Malaysia – labour courts do not recognise the right of an undocumented worker)

Recommendation



- Regardless of his/her nationality or documented status, migrant workers right to justice should be recognised
- Migrants be allowed to work with another employer pending resolution of his case
- Sending countries to increase legal aid fund and set transparent guidelines on eligibility
- Include migrants in national legal aid schemes available to locals
- MFA's Wage Theft Campaign – 5 appeals to government, businesses and international organisations to establish an urgent justice mechanism and setting up a fund that will address and resolve cases of wage theft in an expediated manner - <https://justiceforwagetheft.org/>

Appeal 1: highlighted the **basic initiatives to be taken** with respect to ensuring workers' access to justice and redress for current and repatriated workers

Appeal 2: focused upon concrete mechanisms to be established such as **International Claims Commission, Compensation Fund, and reforms of national justice systems**

Appeal 3: recommended **responsible actions by businesses and employers** to prevent labour and human rights abuse

Appeal 4: **commended actions of certain States** in recognising the need for migrant worker protection in relation to workers' compensations with further recommendations

Appeal 5: focused upon **recommendations specifically for countries of origin and destination**