

Justice Delayed, Justice Denied:

The Experiences of Migrant Workers in Singapore



2010 REPORT



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EXECUTIVE SUMMARY

This report outlines the types of problems faced by low-wage migrant workers in Singapore working in the construction, shipyard, shipbuilding, cleaning and food services industries. It also focuses on their experiences in seeking redress through existing channels of recourse when they become injured or have been mistreated by employers and employment agents. This is the first collaborative report by the Humanitarian Organisation for Migration Economics (HOME) and Transient Workers Count Too (TWC2). The empirical material presented is based on approximately 2,500 case records and notes on workers who sought assistance from the two organisations from January 2006 to March 2010. In addition, thirty workers were interviewed and 104 workers were surveyed. The interviewees were from China, Bangladesh and India.

In recent years, the Singapore government has introduced measures to offer better protection for migrant workers. For example, the minimum amount of compulsory hospitalisation insurance coverage for all migrant workers was increased from S\$5,000 to S\$15,000. In early 2009, a task force was established to detect companies who were in financial difficulties and unable to pay workers. Employers also stand to lose a S\$5,000 security bond for every migrant worker under their employment should they fail to pay them on time. The government has prosecuted errant employers for failing to pay workers promptly, deploying them illegally to multiple work sites, providing sub-standard accommodation, receiving kickbacks and ignoring work safety regulations. It has also demonstrated a commitment to educate workers about their basic rights through its orientation courses, public education posters and handbooks. In addition, public statements have been made through the media to remind employers of their obligations to treat workers fairly, and that the gross exploitation of migrant workers will not be tolerated.

In spite of such measures, many workers continue to face significant difficulties when they attempt to seek redress for their problems. An inflexible work pass

system that restricts job mobility and allows employers to terminate workers swiftly leaves workers at a distinct disadvantage and unable to bargain for better working conditions. Many of them are reluctant to lodge claims for fear of being dismissed and repatriated. While the Singapore government has taken the encouraging step of making exceptions in allowing some needy workers to switch jobs and employers, this currently includes only a minority of workers and is assessed on a 'case by case' basis.

Some employers resort to heavy-handed tactics by hiring men from 'repatriation companies' who use gangster-like means to intimidate workers, confine them against their will and coerce them into dropping their claims by repatriating them forcefully; physical assaults and verbal abuse have been reported. Government officials continue to turn a blind eye towards such practices even though the activities of these 'repatriation companies' are illegal.

Singapore's work permit regulations, which forbid workers from engaging in what it deems 'immoral and undesirable' activities, provide greater opportunities for unethical employers to threaten and exploit workers. Currently, employers are allowed to submit negative feedback about a worker's behaviour to authorities for the purpose of placing future employment bans on them. The process by which this happens is neither transparent nor fair, and the threat of being blacklisted frequently deters workers who may have legitimate complaints from leaving abusive employment situations and/or seeking assistance from the authorities.

When formal complaints are lodged, workers often have to wait long and indefinite periods for their problems to be resolved. During this period, workers are issued Special Passes to allow them remain in Singapore to pursue their claims. However, Special Pass holders are generally not allowed to work, leaving them bereft of any income. During this stressful time, workers' basic welfare suffers considerably. For workers who have been

Ensuring workers' access to justice requires not only strong legislation but effective public education.

injured at the workplace, employers may refuse to report their accidents or deny them the right to treatment and compensation, even though this is what they are entitled to under the law.

Workers who are pursuing salary claims in Singapore's Labour Court are also disadvantaged by the length of time it takes before a Judgement Order is issued. Apart from the difficulties they face in supporting themselves during this period, court proceedings may be confusing for workers, who have limited access to information and lack experience in preparing for formal hearings. In the event that an employer defaults on a Court Order after it has been issued, migrant workers face considerable difficulties enforcing such orders due to the high costs involved.

The Employment Agencies Act prohibits employment agencies from charging job seekers more than 10 percent of their first month's salary and five dollars in registration fees. Yet, many agencies continue to blatantly flout this rule by charging migrant workers thousands of dollars. Despite the large sums of money paid to them, our interviews show that employment agencies do little to represent the interests of workers. Workers who wish to claim refunds for fees paid face an uphill battle because agencies do not provide them with receipts or sign contracts with them for the services rendered. Workers also face difficulties remaining in Singapore to pursue monetary refunds because such claims are not considered statutory claims. As a result, the authorities will not assist a worker to legalise his or her stay.

Ensuring workers' access to justice requires not only strong legislation but effective public education. While Singapore has put measures in place to ensure that migrant workers have access to avenues of redress, and employers are educated about fair employment practices, the experiences of the workers that are documented in this study show that more can still be done to ensure that such avenues are improved, their rights are respected, and their wellbeing is taken care of. It is possible to do all of these without compromising the development of the economy. We also need to recognise that work plays a central role to a person's identity and it is crucial to his or her dignity. When workers feel adequately protected, and their worth as individuals is valued, it will lead to better performance and higher productivity. ■

1 INTRODUCTION

Over thirty percent of Singapore's workforce is made up of foreigners, with a large majority being migrants in low-wage occupations. In December 2009, official statistics show that there were 856,000 foreigners engaged in low-skilled or semi-skilled manual jobs. This figure includes 196,000 migrant women who work as live-in domestic workers in the country.¹ Under the tiered work pass system, foreigners working in Singapore carry with them different work passes that are categorised according to the monthly salaries they draw, which in turn depend on their skill level, experience and academic qualifications (Table 1).

This report focuses on R Pass (work permit) workers employed in the formal sector³ of the economy, henceforth referred to as "migrant workers". Migrant workers have been a part of Singapore's economic landscape since the late 1960s, when the local workforce was no longer adequate for the economy. Currently, to gain legitimate entry into the country for the purpose of work, migrant workers must be sponsored by a legal employer who applies for a permit for them under the work pass system. Strict laws and rules apply to both employers and migrant workers. These laws serve to maximise the economic benefits to the country in adopting an open-door policy for migrant workers and to minimise the perceived negative economic and social implications of such a policy. The government charges employers a monthly foreign worker levy (FWL) for every migrant worker under their employment, and imposes a quota on the number of migrant workers a company is allowed to hire. These measures, according to state rationale, prevent companies from becoming overly reliant on migrant workers at the risk of compromising productivity. The levy and the quota – which differs according to skill level, work pass and sector – are also revised periodically in accordance to the economic climate to ensure that locals are not priced out of the job market.⁴

For the migrant worker, the right to work in Singapore comes with many restrictions. For example, job mobility is prohibited, and the worker is not allowed to switch employers. If they wish to do so, they need to return to their countries of origin and make a fresh application. However, eligibility for this switch depends on whether they meet the MOM's requirements in terms of skill and experience. In addition, migrant workers are not eligible to apply for dependents' passes for their spouse and children, and will be deported and banned from working in the country if they get married or give birth in Singapore or contract certain diseases such as HIV.

TABLE 1:
Work Pass Categories Under the Graduated Work Pass System²

| Type of Work Pass | Eligibility |
|-------------------|--|
| Employment Pass | Fixed monthly salary of more than S\$2,500. Possess acceptable degrees, professional qualifications or specialist skills. The Ministry of Manpower (MOM) evaluates each application and qualification on its merits. |
| S Pass | For mid-level skilled foreigners who earn a fixed monthly salary of at least S\$1,800. S Pass applicants will be assessed on a points system, taking into account multiple criteria including salary, education qualifications, skills, job type and work experience. |
| R Pass | For low-skilled or semi-skilled foreigners who earn a monthly salary of less than S\$1,800. These foreigners are typically employed in construction, manufacturing, shipbuilding and ship-repair industries and the service sector, which includes domestic work as well as the healthcare, retail and hotel industries. Companies employing work permit holders are subjected to sector specific requirements based on nationality. For example, the service sector can only recruit workers from the following countries: Malaysia; Hong Kong; Macau; South Korea; Taiwan; and the People's Republic of China (PRC). |

1 Francis Chan, 'Foreign worker levy to increase over 3 years', The Straits Times, February 23, 2010.

2 See Ministry of Manpower, 'Overview of work passes':

http://www.mom.gov.sg/publish/momportal/en/communities/work_pass/overview_of_work_passes.html (accessed 12 May 2010).

3 This report excludes migrant domestic workers and undocumented workers.

4 Detailed information on the levy and quota system is available on the Ministry of Manpower's website (www.mom.gov.sg).

The important role that low-wage migrant workers play in Singapore's economy is widely acknowledged. An excerpt from Mr Lee Hsien Loong, Singapore's Prime Minister's May Day message in 2008 illustrates this:

First, foreign workers are hardworking and willing to work long hours. By hiring them, coffee shops can open late, or even 24 hours, round the clock. Second and more importantly, with the help of foreign workers, airport, seaport, factories, offices, hotels, restaurants and retail outlets can offer better service and business hours: 365 days a year, 24 hours a day, they can run their operations, service their customers, and so strengthen Singapore's overall competitiveness. Third, many SMEs do not make good profits, especially the neighbourhood shops. If they can hire some foreign workers in addition to the locals, they can reduce their business costs; otherwise, they may have to go out of business. Their Singaporean employees will then lose their jobs.⁵

Even though they are widely acknowledged as significant contributors to Singapore's economy, many migrant workers earn meagre salaries and endure harsh living and employment conditions. They are also the first to be affected during an economic crisis since they are a flexible component of the workforce. The economic downturn in 2008 sparked by the U.S. banking crisis has made their vulnerabilities even starker. The local papers ran several stories of hundreds of Bangladeshi workers who were left to fend for themselves because they did not have any work.⁶ In April 2009, 200 Chinese construction workers staged a gathering outside the MOM when their work permits were revoked because their employers had no jobs for them.⁷ This report is concerned with migrant workers who are seeking redress for employment-related problems in Singapore. Migrant workers who seek assistance from the MOM are usually issued with a Special Pass that allows them to remain in Singapore until their problems are resolved.⁸

Although MOM has created channels for migrant workers to seek redress for their grievances, many workers encounter significant challenges in doing so.

This report highlights the following difficulties:

- 1) types of employment problems faced by migrant workers in Singapore;
- 2) problems faced by migrant workers in accessing recourse channels;
- 3) loopholes in the existing legislative and procedural framework that employers and employment agents use to exploit and limit workers' access to justice.

The report concludes with recommendations to counter the loopholes in our legislative framework and better safeguard the rights and wellbeing of migrant workers in Singapore.

METHODOLOGY

Primary data sources for this report include:

- a) Interviews with a total of 30 Bangladeshi, Indian and Chinese Special Pass holders. The interviewees were engaged in jobs in the construction, shipyard, shipbuilding, cleaning and food services industries.
- b) A survey of 104 Special Pass holders: 54 from India, 30 from Bangladesh and 20 from China. All of the survey respondents are male and come from similar occupational categories as the interviewees above.
- c) An analysis of case notes for the period 2006-2010. Data gathered from the case notes are reports by the Humanitarian Organisation for Migration Economics' (HOME) and Transient Workers Count Too's (TWC2) case workers and volunteers who recorded workers' difficulties and complaints.

The interviews provided qualitative information on seven key areas:

- a) respondents' profiles;
- b) the motivation and means by which respondents

- secured employment in Singapore;
- c) the immediate experiences of respondents upon arrival in Singapore;
- d) details of the events that led to the respondents becoming Special Pass holders;
- e) the experiences of respondents in seeking recourse to their problem;
- f) the experiences of respondents of surviving in Singapore as a Special Pass holder;
- g) respondents' views on the kinds of assistance they required and what they hoped for in the resolution of their cases.

The interviewees were guided by an interview schedule when conducting the interviews and were asked to cover all the questions under the seven areas described above. The interviewees were selected based on their language competency to ensure that the interviews could be conducted in the native language of the informants. One of the two interviewees was competent in spoken Tamil and English while the other one was competent in spoken Chinese and English. As there was difficulty in recruiting a Bengali-speaking interviewer, the interviews with Bangladeshi informants were conducted in English and only Bangladeshi informants who were able to converse in English were selected. All the Bangladeshi and Indian respondents were clients of the Cuff Road Project, a free meal programme for migrant workers.⁹ The Chinese informants were recruited through HealthServe, a non-profit group that provides health services to migrant workers,¹⁰ and a temple in the central part of Singapore that offers free food to any walk-in patrons. The respondents are migrant workers who have turned to MOM for assistance and are currently waiting in Singapore for their employment-related cases to be resolved. All of the respondents were once engaged in manual work in the formal sector of the economy. Migrant domestic workers are not included in this study.

Surveys

Consisting of 13 questions the primary objective of the survey is to broadly capture the state of welfare of the

research target group during their wait in Singapore. The sample size of 104 yielded interesting insights into how research participants met their basic needs for shelter, food, medical help and money while being out of work

Secondary Data

We examined approximately 2,500 case files to identify the key issues for this report. The case reports were written by the staff and volunteers of HOME and TWC2 who recorded their observations and interviews with workers who approached us for help. This report also relies on information from media releases, information and news published on the website of the MOM and in Singapore newspapers such as The Straits Times, The Sunday Times, The New Paper and TODAY.

LEGISLATIVE FRAMEWORK CONCERNING MIGRANT WORKERS IN SINGAPORE

The laws which have a direct impact on the welfare and rights of migrant workers in Singapore are the Employment Act (EA), the Employment of Foreign Manpower Act (EFMA), the Work Injury Compensation Act (WICA) and the Employment Agencies Act (EAA).

Employment Act (EA)

The EA is Singapore's main labour legislation. It specifies the minimum terms and conditions of employment for matters such as rest days, hours of work, overtime entitlements, annual leave and medical leave. The EA covers both migrant and local workers who are classified as "workmen"¹¹ in a contract of service who earn less than S\$4,500 a month; "non-workmen" employees whose monthly salary is less than S\$2,000 are also covered. The Labour Relations Department (LRD) of the Labour Relations and Workplace Division, located within MOM, deals with claims made for EA violations.

Employment of Foreign Manpower Act (EFMA)

The EFMA spells out the hiring procedures of a migrant worker's work permit. The work permit terms and

5 <http://www.pmo.gov.sg/News/Speeches/Prime+Minister/Speech+by+PM+Lee+at+NTUC+May+Day+Rally.htm> (accessed 14 May 2010).

6 Leong Wee Kiat, 'Left to their fate; Group of 179 foreigners among a growing number abandoned', Today, December 18, 2008; Nicholas Yong & Samuel He, '55 foreign workers get the boot', The Straits Times, January 14, 2009.

7 Melissa Sim, '200 foreign workers show up at MOM', The Straits Times, April 28, 2009. In December 2008, a similar incident occurred, where 200 Chinese construction workers gathered at the MOM to lodge complaints against their employer for unpaid wages and salary deductions. See Tan May Ping & Shree Ann Mathavan, 'Let's tell MOM', The New Paper, 1 January 2009; Leong Wee Kiat, 'Are these workers just the tip of the iceberg', TODAY, December 31, 2008.

8 When a work permit is cancelled, a Special Pass may be issued to a foreigner for the purpose of legalizing his or her stay in Singapore. Usually only foreigners with legitimate claims or those assisting the government in investigations are issued a Special Pass by the MOM or the Immigration and Checkpoints Authority of Singapore (ICA). The ICA and the MOM have been delegated the authority to issue a Special Pass by the Controller of Immigration. The pass may be renewed at regular intervals.

9 See TWC2, 'Cuff Road Project': <http://www.twc2.org.sg/site/volunteer/cuff-road-project.html> (accessed 12 May 2010).

10 See Healthserve: <http://www.healthserve.org.sg/> (accessed 12 May 2010).

11 Employment Act (Chapter 91) of Singapore, part 1, section 2. A workman is an employee who is:

- a) Any person, skilled or unskilled, doing manual work, including any artisan or apprentice but excluding any seaman or domestic worker;
- b) Any person, other than clerical staff, employed in the operation or maintenance of mechanically propelled vehicles that transport passengers, for hire or commercial purposes;
- c) Any person employed to supervise any workman and perform manual work. However, this is subject to the requirement that the time spent on manual work must be more than half of the total working time in a salary period; or
- d) Any person specified in the First Schedule of the Employment Act, namely cleaners; construction workers; labourers; machine operators and assemblers; metal and machinery workers; train, bus, lorry and van drivers; train and bus inspectors; and all workmen employed on piece rates at the employer's premises.

conditions stipulate the responsibilities of employers toward the upkeep, maintenance and wellbeing of migrant workers. It also sets benchmarks on the period of salary payment, health coverage and repatriation. Rules on the conduct and behaviour of migrant workers such as mandatory health check-ups, restrictions on marriage, family reunification, reproductive rights, and the prohibition of undesirable and immoral activities are also established under the EFMA.

Work Injury Compensation Act (WICA)

The WICA regulates the payment of compensation to employees who have been injured in the course of their work. The act provides a low-cost compensation system for workers who sustain injuries or have died in a work-related accident. Under WICA, an employee is entitled to compensation regardless of fault as long as the injury arises out of or in the course of employment. The amount of compensation is prescribed through the use of a formula and is subject to a maximum ceiling to ensure that the financial liability of the employer is limited. Employees who contract occupational diseases arising out of their work can also claim compensation under WICA. The act covers all employees¹² who are engaged under a contract of service or apprenticeship, regardless of their level of earnings. The Work Injury Compensation Department of the MOM is responsible for the investigations and awarding of claims under this act.

Employment Agencies Act (EAA)

This act regulates the placement of workers by private employment agencies including migrant workers. The Employment Agencies Licensing conditions stipulate the rules on recruitment procedures, client confidentiality, and workers' wellbeing and repatriation issues. It also holds employment agencies accountable for unethical practices.

MOM'S ROLE IN THE MANAGEMENT AND PROTECTION OF MIGRANT WORKERS

The MOM is the Ministry that oversees Singapore's labour needs and the rights of workers. It has a Foreign Manpower Management Division (FMMD), which was established to oversee the enforcement of Singapore's foreign workforce policies and enhance the workplace standards of migrant workers. The Division works closely with several other departments to facilitate the wellbeing of migrant workers. These departments include the Workplace Policy and Strategy Department (WPSD), Work Pass Division (WPD), Occupational Safety and Health Division (OSHD) and Labour Relations and Workplaces Division (LRWD). The FMMD oversees matters pertaining to the physical wellbeing of workers, cases of abandonment and runaways, employment standards and illegal deployment and employment of migrant workers. In addition, the FMMD also manages the professionalism of the recruitment industry and plays a key role in overseeing and enforcing the EAA.¹³ ■

EMPLOYMENT ACT (EA) CLAIMS

Seeking recourse through the Ministry of Manpower's (MOM) Labour Relations Department and Workplaces Division (LRWD)

The LRWD investigates claims and complaints under the EA. Such claims usually involve disputes pertaining to salary arrears, late payment of salary, working hours and termination of employment. The LRWD resolves disputes by mediating between the employer and the employee. Both the employer and employee can seek adjudication by the Labour Court should they disagree with the resolution at the end of the mediation process. The total volume and breakdown of the types of claims processed by LRWD is unknown as such information is not publicly available. However, a newspaper report cited an increase in the volume of wage claims lodged at MOM from 2007-2009. Citing MOM, the report stated that the volume of such claims jumped from 1,514 in 2007 to 3,480 in 2008. In the first half of 2009, there were 4,500 such claims lodged at LRWD.¹⁴

¹² Domestic workers, however, are not entitled to claim compensation for work-related injuries and illnesses through WICA.

¹³ Ministry of Manpower, "Foreign Manpower Management Division":

http://www.mom.gov.sg/publish/momportal/en/about_us/divisions_and_statutory/foreign_manpower_management.html (accessed 17 March 2010).

The claims process administered by the LRWD has obvious advantages. Firstly, it provides a direct and cost-effective means for all workers covered by the EA to seek redress for employment disputes. There is no fee charged for mediation; those seeking adjudication through the Labour Court when mediation fails are charged S\$3. This ensures that all workers would have a fair chance of accessing recourse through MOM for employment disputes.

Alternatively, workers seeking redress for disputes covered by the EA may also file claims in a civil court; however, the costs of doing so are prohibitive. In addition to the fees payable for the services of a lawyer, court fees will also be incurred. Moreover, migrant workers may not be permitted to remain in Singapore should this course of action be taken as the MOM only legalises the stay of workers pursuing statutory claims. The process for such claims may also be protracted – it can be more than a year before a judgment is passed.

Despite the efficacy of seeking redress for salary-related problems through the LRWD, there are various challenges a migrant worker faces when he or she wishes to lodge a claim. These factors are explained in the following sections.

Fear of Losing One's Job and the Legitimacy to Work in Singapore

The fear of losing one's job is a dilemma faced by every worker who wishes to file a complaint against an employer. Typically, any employee who is unhappy with his or her job will resign and look for a new one. However, this is not an option available to migrant workers as the Employment of Foreign Manpower Act (EFMA) prohibits them from doing so. Workers who wish to switch employers need to return to their countries of origin before making a fresh application for a job in Singapore. However, this is a costly option for many workers as it would mean they would have to pay hefty recruitment or "agent fees" again. While MOM may allow certain workers with valid claims to seek a change of employer

in-country, this happens on a case-by-case basis¹⁵ and at the sole discretion of the MOM. Under current work permit regulations, only migrant workers from the construction and domestic work sector are allowed to switch employers. Those in the manufacturing, service and marine industries are barred from doing so.

While domestic and construction workers are allowed to switch employers, this is contingent upon the existing employer's approval. It is almost impossible for workers to obtain approval from employers whom they have filed complaints against. As a result, seeking alternative employment is not an option a migrant worker can exercise. A migrant worker either has to put up with poor employment conditions or turn to MOM to seek redress when employers exploit them. However, in choosing the latter option, workers risk termination from their job and losing their right to work in Singapore.

Under the EA, both an employer and an employee are free to terminate a contract of service by giving notice or paying a salary in-lieu as agreed upon in the contract. In the absence of a contract, the period of notice is as follows:

TABLE 2: Minimum Period of Notice for Termination of Contract of Service

| Length of Employment | Period of Notice |
|------------------------------|------------------|
| Less than 26 Weeks | 1 day |
| 26 weeks to 2 years | 1 week |
| 2 years to less than 5 years | 2 weeks |
| 5 years or more | 4 weeks |

Source: The Employment Act

The minimum period of notice prescribed by the law makes it easy for employers to terminate their workers at will. Employers may also dismiss a worker for misconduct without notice. Moreover, work permits can be unilaterally cancelled online by employers, a procedure that can be completed as swiftly as one day.¹⁶

The ease with which an employer can terminate a worker's employment and cancel his or her work permit makes the worker vulnerable to unjust dismissals. Knowing that migrant workers are dependent on them for their livelihood, some employers abuse this power for the purpose of keeping migrant workers compliant. In 2009, TWC2 received complaints from 34 workers whose work permits were cancelled without their knowledge; the workers had disagreements with employers regarding their employment conditions. HOME noted 50 such complaints in 2009. Lee Xiang Wen, a construction worker from China, recounts:

This is so ridiculous. I merely went to MOM to complain that my employer had taken my work permit card and sought their assistance to help me get it back. Because of what I had done, my employer said that I was creating trouble by reporting to the authorities. But the work permit card belongs to me. The law says that I am supposed to hold on to it, yet the company terminated my employment and cancelled my work permit just because of that. This is really unfair.¹⁷

The premature termination of a contract is a great loss for a migrant worker. The current system of international migration for low-wage workers is largely controlled by private companies and individuals spanning international borders. The transnational nature of the industry poses a major challenge for governance. Businesses involved in labour migration generate profit by charging fees for services rendered such as job training and job placements. These fees are largely extracted from migrant workers. The industry is notorious for unethical practices and human rights abuses, with the harshest critics likening it to slavery. The current system takes advantage of migrants from less economically developed countries where migration is necessary for many in order to improve their

livelihood. Like in many other destination countries, the recruitment of migrant workers in Singapore is dominated by private companies. A migrant worker bound for Singapore parts with thousands of dollars in fees that are usually paid to labour agents.¹⁸ Our interviews with migrant workers reveal that selling assets such as land and homes, as well as borrowing from relatives, banks and money lenders, are the means with which money is raised for the opportunity to work abroad. This fee differs for different nationalities and occupations and has changed over time.

TABLE 3: Range of Agent Fees Paid by Indian, Bangladeshi and Chinese Workers

| Nationality | Agent Fees |
|-------------|--|
| Indian | S\$6,000 - S\$7,000 |
| Bangladeshi | S\$8,000 - S\$10,000 |
| Chinese | For construction workers, the fees range from S\$3,000 to S\$7,000; for service sector workers, it may range from S\$8,000 to S\$10,000. |

Source: Figures based on interviews by H.O.M.E. and TWC2

On average, the fee paid to agents constitute at least ten months of a migrant worker's potential earnings in Singapore. In reality, most migrant workers take more than ten months to service their debt as a significant part of their monthly earnings are required to support their families back home and for living expenses in Singapore. The consequences can be dire for workers who are unable to repay their loans. Those who put up their homes and land as collateral might end up losing their property, while others stand to suffer from physical harm at the hands of illegal money lenders. Shame is also another factor that migrant workers who return home prematurely have to deal with. These factors explain why they are desperate to hold on to their jobs in Singapore and their reluctance to report employers who exploit them. Li Sheng Qiang, a construction worker from China, found himself in this predicament just three months after he arrived. He approached H.O.M.E. for

14 Jermyn Chow, "More safeguards for foreign workers", The Straits Times, September 26, 2009.

15 Lin Yanqin "When things go wrong for them", TODAY, October 22, 2008.

16 See MOM, "Step-by-Step Guide to Cancel a Foreign Worker's Work Permit via WP Online":

http://www.mom.gov.sg/publish/momportal/en/communities/work_pass/work_permit/cancellation.html (accessed 12 May 2010).

17 Interview with Lee Xiangwen, Chinese construction worker, April 2010.

18 Although the bulk of the fees is paid to employment agents in the worker's country of origin, our interviews with the workers also revealed that employers in Singapore benefit from these payments in the form of "kickbacks". These practices are illegal under the EFMA but are often difficult to track because the transactions are not documented in the form of written contracts, invoices or receipts. In some instances, migrant workers are duped into paying agents exorbitant fees for the promise of a job placement that does not exist in the first place.

assistance because his employer had been delaying his salary payment:

I can't possibly go to MOM now to complain... I need to earn back my agent fees first. Please don't report to MOM yet. I can't risk it... Maybe before I go back to China, I will go to MOM and complain.¹⁹

'Blacklisting' Threats

Can the employer put my name on a blacklist? I had a friend who lodged a similar complaint and can't return to Singapore now. My employer said she would complain about me to MOM to prevent me from working here ever again. Is this true?²⁰

Workers who have been found guilty of criminal offences or have been medically incapacitated may be "blacklisted" by the MOM and disallowed from working in Singapore in future. Employers can also submit negative feedback about migrant workers to MOM and this information may be used to decide whether the worker is allowed to return to Singapore to work.²¹

While MOM does not arbitrarily place adverse records on workers at any employer's request, the investigation process which leads to workers being put on a blacklist lacks transparency. Our experiences in dealing with migrant workers who have been blacklisted show that the decision to blacklist is based solely on the employer's account. This happens because the employer's complaint against the worker would have been reported to MOM after the worker has been repatriated, leaving him or her without the opportunity to testify against the employer's negative feedback. The story of Abdul Bashir illustrates this point:

Abdul Bashir, a construction worker from Bangladesh, lodged a claim against his employer for unpaid wages at MOM in July 2009. Afraid that his employer might repatriate him by force in retaliation for complaining against him, Abdul Bashir left his accommodation. During the mediation, an agreement was reached and arrangements were made for Abdul Bashir's repatriation. However, unknown to Abdul Bashir, his employer had made a police report that he was missing and had 'run away' even though Abdul Bashir had informed his employer that he had left the dormitory and had decided to stop working until a resolution was reached for the wages owed to him. Subsequently, when Abdul Bashir attempted to apply for a work permit again from Bangladesh, he found that he had been barred from returning to Singapore to work. Eventually he sought the help of HOME who made an appeal on his behalf for the ban to be lifted.²²

Abdul Bashir's case suggests that migrant workers who leave their employers and seek refuge elsewhere could be at risk of being put on the blacklist unfairly. Another case study illustrates the unfairness of a one-sided blacklisting framework:

TWC2 dealt with a case involving a female worker who was unknowingly put on a blacklist for engaging in a sexual relationship with a member of her employer's family. The relationship was a consensual one involving a family member who was a widower. Nevertheless, the employer was greatly uncomfortable and ashamed of the relationship and decided to terminate the services of the worker and repatriate her. Before doing so, the employer wrote a glowing reference letter as an assurance to the worker that she would not have any problems should she want to come to

19 Interview with Li Sheng Qiang, Chinese construction worker, July 2009.

20 Interview with Wang Shengjun, Chinese construction worker, July 2009.

21 "Give us grief and we will splash your dirty deeds online", The New Paper, March 9, 2010.

22 Case notes from HOME, July 2009.

Singapore again to work. Shortly after being repatriated, through the help of an employment agency in Singapore (the same one who processed her job placement with the former employer), the worker found another employer. However, the new employer's application for a work permit for the worker was turned down. Upon further enquiry, the prospective employer found out that the worker had been blacklisted.²³

In addition to the lack of transparency, these two case studies also suggest that migrant workers are vulnerable to being blacklisted for violating work permit conditions that are non-criminal offences. For example, in case study one, the worker could have been blacklisted for violating Condition 5 of the EFMA while in the second case study, the worker could have been blacklisted for violating Condition 11 of the EFMA (Table 4).

Table 4: Conditions of Work Permit/Visit Pass for Foreign Worker

WORK PERMIT CONDITIONS FOR MIGRANT WORKERS AS STIPULATED UNDER THE EFMA (CHAPTER 91A)

EMPLOYMENT

1. The foreign worker shall work only for the employer specified in the Work Permit/Visit Pass.
2. The foreign worker shall work only in the occupation specified in the Work Permit/Visit Pass.
3. The foreign worker shall not engage in or participate in any business or be a self-employed person.
4. If the foreign worker is a foreign domestic worker, the foreign worker shall only perform household/domestic duties and reside at the employer's residential address or residential premises as stated in the Work Permit/Visit Pass.
5. The foreign worker shall reside at the address stipulated by the employer upon the commencement of his/her employment. The foreign worker is to inform the employer about any self-initiated change in residential address.
6. The foreign worker shall undergo a medical examination by

a Singapore registered doctor as and when directed by the Controller. If the foreign worker is certified medically unfit, his/her Work Permit shall be revoked.

7. The foreign worker shall carry his/her original Work Permit/Visit Pass with him/her at all times and must produce it for inspection on demand by any public officer.
8. The foreign worker shall report to the Controller as and when he/she is required by the Controller to do so.

CONDUCT

1. The foreign worker shall not go through any form of marriage or apply to marry under any law, religion, custom or usage with a Singapore Citizen or Permanent Resident in or outside Singapore, without the prior approval of the Controller, while he/she holds a Work Permit, and also after his/her Work Permit has expired or has been cancelled or revoked.
2. If the foreign worker is a female foreign worker, the foreign worker shall not become pregnant or deliver any child in Singapore during the validity of her Work Permit/Visit Pass, unless she is a Work Permit holder who is already married to a Singapore Citizen or Permanent Resident with the approval of the Controller. This condition shall apply even after the Work Permit of the foreign worker has expired or has been cancelled or revoked.
3. The foreign worker shall not indulge or be involved in any illegal, immoral or undesirable activities, including breaking up families in Singapore.

Source:

Ministry of Manpower, Employment of Foreign Manpower Act (Chapter 91A): http://www.mom.gov.sg/publish/etc/medialib/mom_library/work_pass/files.Par.8149.File.dat/WP_S_Pass_Conditions.pdf (accessed 20 April 2010).

Blacklisting someone based on accounts from one party and for matters that have not been adjudicated before the law makes migrant workers even more vulnerable to being bullied by employers. A blacklisting process that is not transparent allows employers to abuse the mechanism to their advantage. In 2009, HOME received 22 enquiries from workers regarding blacklisting. Some of the workers are concerned about being blacklisted after being threatened by employers. We have received

23 Interview with employment agent, January 2006.

enquiries from workers to check if they have been blacklisted because their application to re-enter Singapore on a work permit had been turned down.

FORCED REPATRIATION, ASSAULTS AND VERBAL ABUSE

Workers who have lodged complaints against employers may be repatriated by force. In 2009, HOME encountered seven workers with outstanding and legitimate employment claims who were forcefully repatriated for filing claims at the MOM or speaking up against exploitative working conditions. Forced repatriation is often carried out by private companies who are registered as legitimate businesses. One repatriation company charges employers S\$300 for every worker that is repatriated. Workers are seized at their dormitories or work sites and subsequently confined before being escorted to the airport for their departure. Some of these repatriation companies use assault, threats and coercion to intimidate workers into leaving the country.

Mr Wu was injured at work and filed a work injury compensation claim at MOM. However, before he was awarded his compensation, the employer hired a repatriation company to send him back. At the airport, Mr Wu refused to leave and he was brought back to the repatriation company's office to be confined again. According to Mr Wu, he was held for a period of 36 days and he was not allowed to leave the premises of the repatriation company. He also said that he was assaulted:

"They beat me. They held me down on the ground and hit my shoulder and back while shouting and threatening me, insisting that I should cooperate with my employer and return to China"²⁴

Mr Wu's movements were also strictly monitored, although he was allowed access to his mobile phone. He told us he called the Police three times to seek their help to release him but his pleas to

them went unheeded. He also said that the Police informed him that the employer has the right to keep him under surveillance since they are obligated by law to ensure that he does not go missing.²⁵ Mr Wu was flabbergasted as he felt that it was unfair that he should be locked up given that it was his employer who had mistreated him in the first place. He eventually sought the help of HOME, which managed to secure his release after negotiating with the repatriation company and the employer.²⁶

Employers engage repatriation companies as a pressure tactic to force workers to drop their claims at MOM. Even though wrongful confinement is an offence under the Penal Code,²⁷ the Police do not classify the wrongful confinement of migrant workers by repatriation companies as a criminal offence.²⁸ There have also been employers who tried to get migrant workers deported by cancelling the workers' work permits and later alerting the Police of their "illegal" status. The experience encountered by five Chinese construction workers below illustrates this strategy:

A group of five construction workers were unhappy with their company for delaying wage payments and not paying for overtime work as required under Singapore law. The workers decided to stop work and went to MOM to lodge a complaint. They were issued an appointment date for an interview with an officer. In the meantime, they continued to stay at the company's dormitory. Knowing that the workers had lodged a complaint at MOM, the company reacted swiftly and cancelled their work permits without the workers' knowledge. Subsequently, they called up the workers for a meeting in the office during the weekend, on the pretext of settling the matter. Without the workers' knowledge, the employer

had informed the Police to arrest them. As it was the weekend and MOM could not be reached to ascertain that the workers had an outstanding claim, the Police arrested the workers as they were, by then, considered "overstayers". The workers spent the weekend in detention until TWC2 and HOME were able to contact a MOM officer to verify to the Police that the workers have an outstanding employment claim that was being investigated.²⁹

In the above case, the employer made use of the workers' undocumented status³⁰ as a tactic to pressure them to drop their claims and agree to a settlement which may not be fair for them. As the workers' Special Passes had expired without their knowledge, they were promptly arrested by the Police, who were unable to verify that the workers have lodged formal complaints with the MOM and have been permitted to stay in the country while matters are being resolved. In addition, the Police were unable to speak with the relevant officer at MOM as it was the weekend.

TIME BAR FOR EA CLAIMS

Current provisions limit the MOM from inquiring into any dispute which had occurred more than one year from the date of lodging the claim. Although it is necessary for time limits to be placed on claims, the one year time bar set out in the EA prevents many migrant workers from claiming back all of their salaries. This is because many workers are in Singapore on two year contracts and they are often reluctant to lodge complaints during their first year of employment for fear of losing their jobs. Most workers are also not aware of the time limit. As a result, when complaints are lodged at the end of a two-year contract, the worker realises that he or she is unable to claim back salary arrears from the first year of employment.

SEEKING RECOURSE THROUGH THE LABOUR COURT

When mediation fails and the disputing parties are unable to agree to a settlement, the claim is brought before the Labour Court. At a Labour Court hearing, the employer and the worker are required to present their cases to the Assistant Commissioner for Labour (ACL), who will issue a judgement after hearing the evidence from both sides. This section outlines the difficulties encountered by migrant workers whose cases are brought before the ACL at the Labour Court.

ESTABLISHING EVIDENCE

Documentary evidence is usually required for workers to establish the veracity of their claims. Workers can do this by providing copies of their work attendance records, contracts, and salary slips. However, workers face significant challenges because they do not have access to such records, which are often kept by their employers. Some companies may not even keep such records even though they are required by law to do so.³¹ While the court allows workers to bring in witnesses (in most cases, the workers' colleagues), many workers find it difficult to do so as their colleagues may be afraid to speak out against the employer for fear of losing their jobs and/or becoming blacklisted.

LACK OF KNOWLEDGE ABOUT THE LABOUR COURT SETTING AND PROCEDURES

Another problem that migrant workers experience in Labour Court is the lack of knowledge about court settings, etiquette, and procedures. Even though the Labour Court publishes a pamphlet with a list of Frequently Asked Questions (FAQs), this information is only available in English. Migrant workers, who are non-English speakers, often find it hard to express themselves in court because of insufficient understanding about the way a tribunal court functions.

24 Interview with Wu, Chinese construction worker, 6th December 2008.

25 Employers are required to post a security bond of S\$5,000 with the MOM. Employers who are unable to locate missing workers, or fail to repatriate them may have their bond forfeited.

26 Case notes from HOME, December 2008.

27 Penal Code (Chapter 224), Chapter XVI, Section 340. This provision states: "Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said [sic] wrongfully to confine that person".

28 Radha Basu, "When things go wrong", The Straits Times, January 31, 2009.

29 Case notes from TWC2, December 2008.

30 Immigration Act, Part III, Section 15 (1). This provision states: "A person shall not remain in Singapore after the cancellation of any permit or certificate, or after the making of a declaration under section 14 (4) or after the expiration or notification to him, in such manner as may be prescribed, of the cancellation of any pass relating to or issued to him unless he is otherwise entitled or authorised to remain in Singapore under the provisions of this Act or the regulations." Section 15 (3a-b) further states that, "Any person who contravenes, without reasonable cause, this section shall be guilty of an offence and (a) in the case where he remains unlawfully for a period not exceeding 90 days, shall be liable on conviction to a fine not exceeding \$4,000 or to imprisonment for a term not exceeding 6 months or to both; (b) in the case where he remains unlawfully for a period exceeding 90 days, shall on conviction be punished with imprisonment for a term not exceeding 6 months and shall also, subject to section 231 of the Criminal Procedure Code (Cap. 68), be punished with caning with not less than 3 strokes, or where by virtue of that section he is not punishable with caning, he shall, in lieu of caning, be punished with a fine not exceeding \$6,000."

31 Employment Act, Part XII, Section 96. This provision states: Every employer of workmen shall keep at the place of employment so that it shall be readily accessible to the workmen there employed, a check-roll pay slip, working board, or other form of record on which, in respect of each salary period, in a form intelligible to the workmen, shall be shown –

(a) the basic rate of pay and allowances, whether by day, hour, piece task or otherwise of each workman;
(b) the amount earned, including overtime earnings by each workman; and
(c) the amount of any deductions made from the earnings of each workman.

They may also not know how to present the facts of their case or argue competently before the ACL, who is presiding over the hearing. In addition, the formality of a court setting may also make some unduly nervous and uncomfortable.

DIFFICULTIES IN ENFORCING LABOUR COURT ORDERS

Workers also face considerable difficulty enforcing court orders when employers fail to pay up, even after the court has ruled in favour of the worker. When employers fail to respond to an order issued by the court, there are generally two courses of action a worker can take:

(a) Executing a Writ of Seizure and Sale

The writ of seizure and sale requires a bailiff to seize from the debtor property to be auctioned for sale to settle a debt. MOM offers a service to help claimants pursue their claims through this channel. However, claimants have to pay for the stamp duty charge (S\$270) and other costs such as the bailiff's attendance fee, which is charged at a rate of S\$50 per hour. In addition, a claimant is also required to make a minimum deposit of between S\$150 to S\$800, depending on the value of the debtor's property.

(b) Executing a Garnishee Proceeding

Garnishee applications are commenced by way of a summons and supporting affidavit. More often than not, the worker will be completely bewildered by the arcane rules, forms and procedures required. All in all, the worker would have to file no fewer than six documents before he or she can obtain a single cent from the Garnishee application. The costs are quite prohibitive for the worker who would have to pay the filing fees for the Summons (S\$20), Affidavit (minimum S\$10, depending on the number of pages), Garnishee Order (S\$50), oath fees (S\$25), etc. (The fees mentioned do not include the Electronic Filing System (EFS) surcharges and other related costs). If

the Garnishee application is unsuccessful, the worker will not be able to recover the above costs and charges incurred.

The costs of pursuing any one of the above options are beyond the reach of most migrant workers who are already in debt and left penniless after waiting for months on end for a resolution to their cases. While there is a possibility the worker may recover these expenses through the proceeds released through the execution of the writ, obtaining the money to begin enforcement proceedings is extremely difficult. This may not even be possible if the company lacks sufficient assets in the first place. If a company is bankrupt or in financial difficulty, the worker may return home empty handed, or with just a fraction of what is owed to them, even though an order has been made for the employer to pay up.

WORKERS OF XING YEE CONSTRUCTION AND ENGINEERING³²

Eight workers from this company were claiming approximately three months salary and overtime pay for one year of their employment. They also reported that their salaries for work done on public holidays and rest days were not calculated according to EA regulations. The contract the workers were asked to sign also stipulated that they were not entitled to paid medical leave or annual leave. In addition to this, the company was making deductions to their salaries that were not allowed under the EA. Such deductions included the cost of the workers' return passage to their country of origin. They earned an average of S\$1,000 per month and worked an average of 11-12 hours a day, seven days a week. There were occasions when they were required to work a full day (24 hours) because the contractor was under pressure to complete the project within a stipulated deadline.

³² The name of the company has been changed for the purpose of this report.

he had breached the terms of the employment contract.³³ Without access to legal aid,³⁴ the worker was at a loss and felt pressured to give up his claim to avoid a legal wrangle with the company. As most workers do not have the means to hire lawyers to assist them, it is very likely that they will give up their claims midway to avoid being sued by their employer. ■

The employer refused to acknowledge their claims and argued that the workers had signed contracts agreeing to the company's method of payment. Even though the workers had signed the contracts, the terms and conditions they were asked to agree to were in violation of EA regulations, and were thus considered illegal, null and void. Since the employer refused to pay their salaries according to the standards set by the EA, the workers' claims were brought to the Labour Court for adjudication. However, only three workers agreed to remain behind to pursue their salary arrears at the Labour Court. The rest were discouraged by the length of time it would take for the case to be resolved. After nine hearings and six months of waiting, a judgement was issued.

Throughout the entire period when the workers were attending the hearings, they were not allowed to work and had to rely on NGOs for shelter and food. They also did not know how to present their claims to the Labour Court as they were unsure about its procedures and had to rely on the NGOs for assistance. The pamphlet handed to them by the MOM explaining Labour Court procedures was in English and the workers did not understand its contents. They also found it difficult to provide evidence since the company withheld most of their time cards detailing the number of hours they worked, neither were they provided clear salary vouchers explaining how their salaries were computed.

EMPLOYERS MAY FILE CIVIL CLAIMS AGAINST WORKERS

Aggrieved employers may hire lawyers to file civil claims against workers even though a case is being heard by the Labour Court. In a case which HOME assisted, a lawyer served a writ of summons on a worker on the basis that

³³ Employment Act, Part XVI, Section 132. This provision states: "Nothing in this Act shall operate to prevent any employer or employee from enforcing his respective civil rights and remedies for any breach or non-performance of a contract of service by any suit in court in any case in which proceedings are not instituted, or, if instituted, are not proceeded with to judgment under this Act."

³⁴ Legal aid for non-criminal cases is not available to migrant workers.

3 WORK INJURY COMPENSATION CLAIMS

The Work Injury Compensation Act (WICA) provides compensation to workers when they sustain injuries, or contract an illness. In the event that the accident results in the death of a worker, the family is entitled to compensation. Compensation can also be pursued through common law in the civil court with the assistance of a lawyer. However, pursuing a claim through common law is more complicated. The lawyer representing the worker needs to establish sufficient evidence that the cause of injury, illness or death is not attributable to the worker but to the employer or a third party. If the lawyer is able to do so, common law claims may result in significantly higher compensation amounts. On the other hand, the WICA awards compensation to workers regardless of fault. However, the compensation amount may be significantly less than when the claim is pursued through common law. In addition to monetary compensation for permanent incapacity or death, WICA also entitles workers to medical leave wages and reimbursement of medical expenses.

Pursuing work injury claims poses a significant challenge for workers who may not be aware of their rights. This chapter illustrates some of the problems encountered when such claims are made.

REPORTING AN ACCIDENT

Our interviews with migrant workers reveal unsettling accounts of callous handling of workplace accidents by employers:

Rajkumar, a 23-year-old Indian construction worker recounted that four hours passed before his supervisor brought him to the hospital. He had injured his hand badly after a heavy tool box fell on it because of a faulty pulley system. Even though he had fainted because of the shock of the impact of the heavy object falling on his hand, his supervisor did not see the urgency to provide immediate medical attention. When he came around and requested for an ambulance to bring him to hospital, the supervisor said that there was no time for that as they had to finish their work. He was moved to the corner of the worksite while the rest of the workers continued working. He was only taken to the hospital at the end of the work day.³⁵

In more extreme cases, a supervisor sometimes goes to great lengths to conceal the workplace accident from the authorities:

Chelladurai, an Indian shipyard labourer in his mid-thirties, related that he was locked up in a room for about four hours after he was injured in an accident that happened to him while working. He was finally taken to a private clinic when his injury became worse. The supervisor instructed him to lie to the doctor that his injury did not result from a workplace accident but was instead caused by a lorry accident. His supervisor also took his work permit away and threatened to sack him should he tell others about the workplace accident.³⁶

Ignoring work place accidents and not reporting them to the Ministry of Manpower (MOM) is a punishable offence under the WICA. Reporting of accidents are necessary in order for work injury compensation claims to be processed. MOM also relies on such reports to monitor health and safety standards at the workplace. In 2000, MOM introduced a demerit point scheme in the construction industry to penalise employers who do not comply with safety standards at their work sites. A main contractor who accumulates more than 18 demerit points within a 12 month period will be issued a warning letter by MOM, followed by a freeze on their man-year entitlement;³⁷ they may also be barred from hiring migrant workers. A subcontractor who has accumulated more than 18 demerit points within a rolling period of 12 months also stands to be banned from hiring a foreign employee for a period ranging from six months to 24 months.³⁸

Given that companies have much to lose financially and that a company's overall operations can be affected when a worker sustains an injury from a workplace accident, some companies would prefer not to report workplace accidents.

ACCESS TO MEDICAL LEAVE AND MEDICAL LEAVE WAGES

The WICA stipulates that employers are required to pay medical leave wages to employees no later than the same date as their usual earnings would have been payable. Our experience shows that some employers do not comply with this. They resort to confiscating medical leave certificates issued by the clinic or the hospital to keep workers in the dark about their entitlements.

Aktar, a general labourer from Bangladesh employed by an engineering firm, injured his finger badly when a pipe weighing about 600kg fell on it. He was given immediate medical

³⁵ Interview with Rajkumar, Indian construction worker, 20 December 2008.

³⁶ Interview with Chelladurai, Indian shipyard worker, 22 December 2008.

³⁷ A man-year entitlement (MYE) is the total number of migrant workers a main contractor is entitled to employ, based on the value of projects/contracts awarded by developers/owners.

³⁸ http://www.mom.gov.sg/publish/momportal/en/communities/workplace_safety_and_health/maintaining_a_safe_work_place/demerit_point_scheme.html (accessed 13th May, 2010).

attention and was ferried to a private hospital for surgery. Aktar's small finger was smashed in the accident and the doctor inserted a small metal rod to stabilize the bone. He spent the night in the hospital and was discharged the following day. Aktar did not know how many days of medical leave he was given because the person who ferried him to the hospital confiscated the medical certificates and reports that were meant for him. During follow-up checkups, Aktar was again issued with medical leave and a letter indicating that he was fit to perform light duties only. However, he did not know how long his medical leave and light duty leave was as the company did not inform him, nor did they allow him to keep the documents.³⁹

In cases where workers are given medical leave or light duties, some companies resort to threats to pressurise workers into assuming their normal duties so that they can get their money's worth from paying wages to an injured worker:

Cheng, a construction worker in his 30s from Jiang Su Province, China, injured his head while working. A piece of steel fell on his helmet and cracked it. He escaped without any head injury but was rendered unconscious from the impact. He was rushed to a nearby hospital and hospitalized for observation. Upon being discharged, the doctor certified him as fit for light duties for one month. However, upon reporting back to his company, Cheng was instructed to assume his normal duties and workload. When he protested, the company said that he would not be paid.⁴⁰

Some companies also resort to threats of repatriation to force workers to assume their normal duties as

39 Case notes from TWC2 January 2010

40 Interview with Cheng, Chinese construction worker, January 2009.

41 Interview with Zakirul, Bangladeshi welder, 15 June 2009.

illustrated in the following case study:

Zakirul, a 29-year-old welder from Bangladesh, broke his big toe after a colleague accidentally dropped a huge metal welding coil on it. He was hospitalized for three days and the doctor told him that his injury may not heal completely. Instead of being sympathetic, Zakirul's employer was extremely unhappy with him for getting injured. When he was discharged, Zakirul returned to work but was unable to perform as well as before. He could not work the usual hours without needing frequent rests which made his employer unhappy with him. His employer then instructed him to carry out light duties and refused to let him rest completely. They also threatened that he would be sent back to Bangladesh without his work injury compensation (which was still being processed) if he stopped work. Zakirul decided to leave the company and sought the help of a lawyer to process his work injury claim at MOM.⁴¹

Some companies resort to sacking workers who are granted long medical leave. This happened to Rajkumar, who injured his hand in the case study cited above:

When Rajkumar was finally brought to the hospital, he was operated on and hospitalised. The doctor inserted two steel plates into his hand to correct the fracture and broken bone and Rajkumar was granted three and half months medical leave. Barely a few days into his leave, his supervisor told him to pack his bags as the company had decided to repatriate him to India. The supervisor used threats to pressurise Rajkumar into leaving. As he had not worked long enough to pay off the S\$8,000 loan he took to secure his job in Singapore, Rajkumar took the advice of his friends and left his employer. He then

sought the services of a lawyer and filed a work injury compensation claim with MOM.⁴²

FILING A WORK INJURY COMPENSATION CLAIM

Almost all of the workers we interviewed are not aware of the procedures required to file a work injury compensation claim. These workers only know that they are entitled to compensation when friends encourage them to seek the help of lawyers. Even though lawyers are not necessary for statutory claims filed through the MOM, a significant number of workers rely on them. A possible reason for this is the worker's poor command of English. Since the injury claim forms and letters issued by MOM are in English, workers do not feel confident pursuing these claims on their own. Moreover, as legal complications may arise during the course of the claim, workers may feel more confident having a lawyer to assist them. Some employers also resort to threats, assaults and forced repatriation to prevent workers from filing work injury compensation claims. As Chelladurai, 27, from India said:

"The company has sent back workers who have been injured before. They get the gangsters to beat them and force them back. Nobody dares to make any complaints against this boss because all the men are scared. My friend from another company was beaten up and threatened for making a work injury claim at MOM. He is very scared now and ran away from his employer. He is now staying at his friend's house... it is so difficult for us sometimes. It is not my fault that I got injured and want to claim compensation. All we ask for is a little respect..."⁴³

42 Interview with Rajkumar, Indian construction worker, 20 December 2008.

43 Interview with Chelladurai, Indian shipyard worker, July 2009.

44 Employment Act (Chapter 91), Part III, Section 27 (1). This provision states that authorised deductions are:
(a) deductions for absence from work;
(b) deductions for damage to or loss of goods expressly entrusted to an employee for custody or for loss of money for which an employee is required to account, where the damage or loss is directly attributable to his neglect or default;
(c) deductions for the actual cost of meals supplied by the employer at the request of the employee;
(d) deductions for house accommodation supplied by the employer;
(e) deductions for such amenities and services supplied by the employer as the Commissioner may authorise;

MEDICAL EXPENSES AND FOLLOW-UP TREATMENT

The WICA stipulates that employers are responsible for a worker's medical expenses arising from injuries sustained at work. Work permit conditions in the Employment of Foreign Manpower Act (EFMA) also places the responsibility of medical expenses on the employer. 18 out of the 19 respondents who suffered work injuries told us that they had to pay for their own medical expenses because their employers refused to. These men either had to pay the full or partial costs of their medical treatments. One worker revealed that even though his employer paid for his visits to the hospital, the employer eventually offset the costs by not paying the worker his salary for three months. Deducting workers' salaries is a common method employers use to recover money spent on medical expenses. Even though deductions for medical expenses from workers' salaries are not allowed under the Employment Act,⁴⁴ some employers circumvent this problem by re-labelling these expenses as authorised ones.

When employers refuse to bear expenses for medical treatments, migrant workers may be denied access to medical treatment:

Aktar eventually sought the services of a lawyer to help him with the work injury compensation claim as he was scared that the company would send him back to Bangladesh, leaving him no chance to claim for compensation for his injury. One day his finger started showing signs of infection and his lawyer suggested that Aktar go to the hospital to seek treatment. His lawyer assured him that the hospital would not refuse him treatment as he has a work permit that shows his employer's details. However, Aktar's experience proved otherwise. The hospital refused to treat Aktar as he had no money on him and he did not have a letter of guarantee from his employer indicating that the hospital could bill the expenses to the

(f) deductions for recovery of advances or loans or for adjustment of over-payments of salary;

(g) deductions for income tax payable by the employee;

(h) deductions of contributions payable by an employer on behalf of an employee under and in accordance with the provisions of the Central Provident Fund Act (Cap. 36);

(i) deductions made at the request of the employee for the purpose of a superannuation scheme or provident fund or any other scheme which is lawfully established for the benefit of the employee and is approved by the Commissioner;

(j) deductions made with the written consent of the employee and paid by the employer to any cooperative society registered under any written law for the time being in force in respect of subscriptions, entrance fees, instalments of loans, interest and other dues payable by the employee to such society; and
(k) any other deductions which may be approved from time to time by the Minister.

company. A TWC2 volunteer who accompanied Aktar to the hospital asked the hospital personnel to clarify matters with Aktar's lawyer on the phone. After checking with the lawyer, Aktar was issued an appointment for a later date. The hospital personnel told Aktar that he would need to get a letter of guarantee first from his employer before they could treat him. This caused much distress to Aktar as his finger was showing signs of infection. Aktar was finally allowed to see the doctor after much persuasion by the volunteer on his behalf. ■

4 INFRINGEMENTS of EMPLOYMENT REGULATIONS UNDER the EMPLOYMENT of FOREIGN MANPOWER ACT (EFMA)

The Foreign Manpower Management Division of the Ministry of Manpower (MOM) conducts investigations for infringements to the EFMA. The types of offences mentioned below are some of the typical offences committed by employers that affect migrant workers. Employers who are found guilty of these offences will be prosecuted.

To safeguard the welfare of migrant workers and to ensure adherence to employment standards, the EFMA prohibits employers from the following:

Illegal deployment

Employers deploying workers to work in job sectors and companies other than those stated in their work permit cards.

Illegal employment

Hiring workers without valid work passes.

Making false declarations to the MOM

Employers hire migrant workers on S Passes or Employment Passes (See Table 1) to get around quota restrictions on hiring migrant workers, to avoid paying high monthly levies and to avoid having to place a security bond for foreigners under their employment. For such passes to be approved, some employers and employment agencies submit fake education certificates or make false declarations on the monthly salary of employees. Some employers also coerce employees to sign salary slips and vouchers containing false information.

Kickbacks

Kickbacks are payments that are made to an employer by a worker in return for a job opportunity or for an opportunity to renew a contract with the employer. It is an offence for employers to receive such payments from workers to offset their business costs or recover employment-related expenses such as the foreign worker levy.

ESTABLISHING CREDIBLE EVIDENCE

The first difficulty faced by workers in lodging complaints about employment infringements under the EFMA is establishing credible or sufficient proof that the offences have taken place. Kickback offences are particularly difficult to substantiate. Some employers may demand

that workers give them upfront cash without issuing receipts so that there is no trail of evidence for such payments. There are also employers who receive kickbacks by deducting wages and re-labelling them as authorised deductions from salaries. (See footnote 44 for a list of deductions authorised under the Employment Act). Li Chen Chen, a kitchen assistant from China, spoke of her experience:

The lady boss told me that I need to pay her because of the foreign worker levy. Every month she asks me sign a voucher with a S\$300 deduction for food. But in reality, I am not getting any food from her apart from plain noodles from her restaurant. No meat, vegetables or condiments. Just plain boiled noodles. If I want to add any other ingredients to what she provides, I have to buy them on my own.... I was not happy with this but what can I do? Nobody dares to go against her.⁴⁵

Another tactic used by employers who make false declarations regarding work passes is to demand that workers return a portion of the salary credited into their bank accounts. This was related by Nurul Islam, a Bangladeshi worker who was employed on an S pass but was actually paid a work permit holder's salary:

S Pass is supposed to be S\$1,800 salary. But the boss tells me to give back \$800. All the men in the company have to do this. If you don't listen to the boss, he will send you back Bangladesh.⁴⁶

PURSUING SALARY CLAIMS FOR ILLEGAL DEPLOYMENT

Workers are not allowed to claim salaries for work that they have been illegally deployed to do. The rationale for this is to discourage workers from continuing to work under such conditions and reporting these

infringements to MOM. However, this leaves migrant workers who are unaware that they have been illegally deployed gravely disadvantaged. The following case illustrates this:

Sekar Ravi is a 53-year-old Indian general labourer who worked in Singapore on two separate stints. He had a good run on his first stint in Singapore from 1996-2001 but had problems with his employer for his second stint, which began in 2004. When he arrived in Singapore, he was made to work for a different company. He didn't think anything was wrong with this as he still reported to the person he identified as his employer. This person was still managing his work affairs and was paying his salary. He simply thought that it was another company owned by his boss. After working for a year, his employer started defaulting on salary payments. Wanting to seek redress for this, he lodged a claim at MOM. Upon investigation, he was found to have been illegally deployed and that the employer had also defaulted on levy payments for seven months. As a result of this, Sekar Ravi's work permit was no longer valid. MOM issued Sekar Ravi a Special Pass so that he could assist them with investigations for the offences committed by the employer. Sekar Ravi waited for three years before he was required to give his testimony in 2008, when the case was finally heard in the subordinate court. At the end of the court hearing, which lasted for four days, the prosecutor informed Sekar Ravi that he was no longer needed by MOM and that he could arrange to go back to India. Sekar Ravi never received the wages owed to him.⁴⁷ ■

⁴⁵ Interview with Li Chen Chen, Chinese kitchen assistant, February 2010.
⁴⁶ Interview with Nurul Islam, Bangladeshi shipyard worker, August 2009.

⁴⁷ Interview with Sekar Ravi, Indian construction worker, 25 June 2008

5 CLAIMS AGAINST EMPLOYMENT AGENCIES

“The agent told me not to bother her again. She shouted at me and said that I could complain to Ministry of Manpower (MOM) if I wanted to but she would not give me a refund.”⁴⁸

There are over 2,300 licensed employment agencies in Singapore, with many of them providing job placements for migrant workers.⁴⁹ In addition to placement fees in their countries of origin, some migrant workers are also required to pay fees to agencies in Singapore. Fees paid to local agents can range from S\$3,000 – S\$8,000. Though the Employment Agencies Act (EAA) limits the amount that employment agencies are allowed to charge for placements,⁵⁰ in reality seeking refunds for fees charged is extremely problematic. Workers who seek refunds often do so because the jobs offered to them do not meet their expectations. This may happen when the employment agency is not truthful about the job it has recommended to the worker. Workers interviewed by H.O.M.E. often complain that their working hours and salaries are different from what their agent previously promised. Many workers also seek a refund when they have been dismissed by their employers and have not earned enough money to recover the cost of the recruitment fee.

DIFFICULTY ESTABLISHING EVIDENCE

Workers who wish to claim placement fees paid to agents may do so through the small claims tribunal.⁵¹ However, most workers do not have substantial evidence for their claims to be heard. In 2009, H.O.M.E. saw a total of 23 Chinese workers who had paid money to local agents in Singapore but were unable to claim their money because they did not have any evidence in the form of receipts and contracts, which are vital for a claim to be substantiated. However, it is a common practice for employment agencies not to give out receipts to workers for payments made. Those who demand a receipt or a contract are routinely denied them. Some are even told that if they insist upon having their transactions documented, they will not be offered a job. In the event that a receipt is issued, the agency may not provide any form of identification to show that the receipt was issued by them (for e.g. the name of the agency or the name of the person who issued the receipt

is not indicated), making it almost impossible for workers to lodge claims against their agents.

DIFFICULTIES REMAINING BEHIND TO PURSUE CLAIMS

Even though it is a statutory offence to charge workers more than the prescribed limits set out in the EAA, workers who wish to claim the fees may not be allowed to do so. While MOM may issue Special Passes to workers with salary or work injury compensation claims, this does not apply to claims against agents for fees paid to them. Instead, most workers are directed to the Small Claims Tribunal to lodge their complaint. Hearings at the Small Claims Tribunal may take a month or more. During this period, the worker may find it difficult to legalise his or her stay in Singapore because MOM does not legalise the stay of workers who are pursuing agency fee refunds. Since most disputes against agents involve unsatisfactory employers or working conditions, the worker’s work permit would likely already have been cancelled by the employer and he or she will have little choice but to return to the country of origin.

LACK OF PROFESSIONALISM

Employment agencies can and should play a role in facilitating fair employment practices and assisting in the resolution of employment disputes between workers and their employers. However, we have documented many cases of employment agencies who fail to do so. Workers often tell us that their agents tell them not to be fussy or refuse to answer their phone calls when they need assistance during a dispute. Recalls Zhang Xiulan⁵², a restaurant employee from China:

I called my agent to talk about the problems I was having with my new job. The agent told me not to be fussy and just do as I am told. I was not happy with her response and tried calling her back to talk

48 Interview with Zhang Xiulan, Chinese restaurant employee, March 2010.

49 S Ramesh, “MOM announces measures to strengthen management of foreign workers in Spore”, Channel NewsAsia, March 12, 2010. The article states “Last year, MOM received 1,280 complaints from employers, foreign workers and members of the public, regarding employment agency malpractices – an 80 per cent increase compared to the year before”.

50 Employment Agencies Act, Chapter 92, Subsidiary Legislation, Employment Agency Rules (1) This provision states that: Fees may be received by an employment agency from an applicant for employment shall be (a) Registration: Not more than \$5 per person per registration. (b) Commission: In addition to the above, not more than 10% commission on the first month’s earnings of applicants placed in employment may be charged.

51 The Small Claims Tribunal is a tribunal court which resolves disputes arising from small claims or transactions that do not exceed S\$20,000. All disputes are first mediated and adjudication is carried out only when mediation fails. The disputes handled are usually between an individuals and businesses.

More information about the small claims tribunal can be found here: www.subcourts.gov.sg.

52 Interview with Zhang Xiulan, Chinese restaurant employee, March 2010.

about it. However, she refused to pick up my calls and refused to meet me even when I went to her office.

Since employment agencies are dependent upon employers for the bulk of their business, it is not surprising that little heed is paid to the concerns of workers. Many employment agencies merely play the role of administrators by assisting employers with the recruitment of workers and ensuring that the paperwork is done for the work pass to be approved.

In 2002, the MOM announced that all employment agencies managing migrant domestic workers need to be accredited by either the Association of Employment Agencies Singapore or the Consumer Association of Singapore (CASE) under its CASETRUST Accreditation Scheme. Accreditation is an attempt by both groups and the Ministry to ensure that employment agencies adhere to ethical and professional standards of practice. Both groups established their respective "code of practices [sic]",⁵³ which seeks to enhance already existing licensing conditions set out by the EAA. However, employment agencies that provide placement services to migrant workers other than migrant domestic workers are exempted from accreditation, making it easier for such agencies in an already poorly regulated industry to cheat workers without being held accountable for it.

Employment agencies play an important role in the functioning of the migrant labour market. Therefore, it is important that effective regulation and professional, ethical standards are established to ensure equitable relationships among agencies, workers and employers. This will only happen when the government and accreditation bodies concerned muster the political will to educate employment agencies, set internationally recognised standards, and conduct stringent checks to ensure such standards are adhered to. ■

⁵³ Association of Employment Agencies Singapore, "Code of Practices – AEA (S) Accreditation Scheme": www.aeas.org.sg/images/aeascode.pdf (accessed 12 May 2010).

WELFARE & WELLBEING while WAITING for a RESOLUTION

When workers lodge claims or are assisting the authorities in investigations, they are often required to wait in Singapore for a considerable period of time while investigations are carried out. Salary claims that are adjudicated by the Labour Court may take anywhere from one month to as long as eight months before a judgement is issued. With work injury compensation claims, it may take an average of six months to more than a year before a worker finally gets his or her compensation. Similarly, those who are assisting in investigations against errant employers as prosecution witnesses may have to wait more than a year before the investigations conclude. In some cases we encountered, the workers have remained in Singapore for almost two years. This can cause considerable hardship for migrant workers who are often left to fend for themselves during these long waiting periods.

ACCESS TO EMPLOYMENT

The Ministry of Manpower (MOM) established the Temporary Job Scheme (TJS) to support workers who are assisting the authorities with investigations as prosecution witnesses. These investigations are usually for offences committed by the worker's employer or employment agency. MOM has recognised that it is not possible to expect such workers to remain behind for an extended period of time and not provide them with any means of survival.

Workers who participate in the TJS are issued work permits for a period of six months; these permits can be extended if the worker is required to remain behind longer. Both the employer and the worker participating in the TJS will be subjected to prevailing work permit conditions. All other existing rules and regulations, including those pertaining to levy rates, the number of foreign workers a company is allowed to hire and other industry-related criteria will apply. Whether a worker is able to find a job through the TJS is dependent upon market conditions and the number of employers who choose to participate in the TJS.

The TJS excludes certain workers. For example, workers pursuing salary arrears claims and work injury compensation claims are not eligible to seek work through the TJS. These workers are also prohibited from seeking work through other means. This can cause considerable distress to workers who have no source of income while waiting for their cases to be resolved, as their families depend on them for financial support. Some workers decide against lodging claims to avoid being caught in this situation. Li Chao, a construction worker from China, explains:

The claims process is too long; I can't wait. What am I supposed to do during this period? No money for food, no place to live. My family needs me to go back as soon as possible.⁵⁴

There are also workers like Qiao Wang Hui, a construction worker from China, who feel pressured to settle for less than what is owed to them because they cannot work and are under financial stress:

I need to pay for my daughter's school fees soon but I can't because they refuse to pay me my salary. I need the money urgently as the deadline for payment is past its due date. My family has asked me to just take any amount the employer is willing to give and not try and claim back the full sum. They said that they need me to be home as soon as possible. But all of the money is my right to claim, why should I settle for less?⁵⁵

ACCESS TO SHELTER AND FOOD

I was really angry. How can the company not care for me at all? Not only did they not pay me my salary but they also leave me in the lurch. I don't have any money for food and transport. I also don't have a place to stay. The girl at the office told me not to disturb them with these concerns or she'll call the police. And then the police really came! I told them about my problem but instead of helping me, they actually told me to drop my case against my employer!⁵⁶

The Employment of Foreign Manpower Act requires employers to be "responsible for the cost of upkeep and maintenance of their workers".⁵⁷ In practice, most employers will only provide subsidised accommodation and food when these expenses can be deducted from a migrant worker's monthly salary, as these are considered authorised deductions under the Employment Act. However, a migrant worker who is waiting for a work injury compensation claim or a resolution for salary arrears is prohibited from working.

Ultimately, many such workers end up finding their own shelter and sourcing for their own food. This happens for various reasons. Some employers deliberately chase workers out of their dormitory in retaliation for workers complaining against them.

There are also workers who leave company accommodation out of fear of being repatriated or assaulted by employers (see Chapter 2). Some workers who are seeking work injury compensation claims and are on medical leave are also denied their medical leave wages and salary entitlements as stipulated under Worker Injury Compensation Act. Bereft of any income while waiting for their payout, many of these workers cannot afford shelter or food.

Out of the 104 workers surveyed, only 17 per cent (18 workers) were still living in company accommodation. The rest of the workers had to find their own accommodation while waiting for their cases to be resolved. Thirty-five per cent (36 workers) did not have access to proper accommodation and were sleeping on the streets or in public spaces. Nine per cent (9 workers) were putting up at an NGO shelter while another eleven per cent (11 workers) were staying with friends. Twenty-nine per cent of workers (30 workers) were living in accommodation they were paying for themselves.

In terms of access to food, 70 per cent (75 workers) said they eat more than one full meal a day with rice while 28 per cent (29 workers) indicated that they only have one full meal a day with rice. Of those surveyed, only 40 per cent (51 workers) said they buy the meals themselves; the rest of them (60 per cent or 53 workers) indicated that they rely on free meals provided by non-government or religious organisations and the kindness of friends. These figures suggest that meeting basic welfare needs is a pressing issue for many workers waiting for their claims to be resolved.

OTHER STRESSES INDUCED BY LONG WAITING PERIODS

Migrant workers who are asked to be prosecution witnesses can be asked to remain in Singapore for substantive periods. This causes considerable distress as they are separated from their families and are not allowed to leave the country to visit them. Sekar Ravi (see Chapter 4) waited for three years before being called to the witness stand to testify against his employer. Although he was allowed to find work under the TJS, Sekar Ravi had an accident and injured his hips and was not able to work and pay for the required treatment. As a result, he had to depend on the kindness of friends, NGOs and the temple to help him with his medical needs, food and shelter. Sekar Ravi's wife, who waited for him for three years, did not understand why he had to remain in Singapore for so long and wanted him to return home and seek traditional medical treatment for his injuries. She was also suffering from asthma and wanted him to be home so that they could take care of each other. In the three years he spent waiting in Singapore, Sekar Ravi's family was also affected by the tsunami and his house was partially destroyed. He could not be with them to help them through their hardship. Sekar Ravi is not the only one in such a predicament. Govindasamy, a cook at an Indian restaurant, was also held back for over two years to assist the authorities in investigating his employer.

Govindasamy was promised a job as a cook in a popular Indian restaurant by his labour agent in India. Little did he know that his employer had applied for an Employment Pass for him to work in Singapore. This is not allowed as Govindasamy does not have the appropriate qualifications for an Employment Pass. As a result of what the employer had done, the authorities launched an investigation which lasted for over 2 years. During this period, Govindasamy was required to remain in Singapore as a prosecution witness. Even though he was allowed to find work under the TJS

⁵⁴ Interview with Li Chao, Chinese construction worker, October 2009.

⁵⁵ Interview with Qiao Wang Hui, Chinese construction worker, August 2009.

⁵⁶ Interview with Zhao Gong Ping, Chinese construction worker, February 2010.

⁵⁷ Employment of Foreign Manpower Act (Chapter 91A), Conditions of Work Permits/S Passes, First Schedule, Clause 3; Second Schedule, Clause 12; Third Schedule, Clause 2.

during this period, he found it very difficult to find a job. He was only allowed to work in selected industries such as the construction and shipyard industries. However, Govindasamy did not possess the right skills for these industries. This made him unattractive to prospective employers. He told us that his family was unhappy with him for not sending any money back and were under the mistaken impression that he was neglecting them while enjoying himself in Singapore.⁵⁸ ■

7 CONCLUSION & RECOMMENDATIONS

Improving labour standards and mechanisms for redress may sometimes be perceived as impeding economic development because of the perceived costs involved. However, compliance with internationally recognised labour standards, when translated into equitable relationships between workers, employers, and employment agents will accompany improvements in worker productivity and performance. High turnover and job-hopping are some of the reasons that have been cited for affecting a company's performance. When workers are viewed as individuals with rights, and not just as commodities that are cheap to hire and quick to be fired, this provides incentives for them to improve their performance and remain longer in employment. When employment protection is provided, it may also lead to increased productivity since it creates a work environment that fosters creativity and encourages workers to innovate by taking risks. Creating effective mechanisms of redress for aggrieved workers is one of the key components of building a work culture that respects workers' rights. Singapore has much to gain when it upholds the dignity and ensures the wellbeing of its migrant workers.

To Prevent Forced Repatriation and Threats of Unfair Blacklisting

1. Outlaw security companies which forcefully repatriate migrant workers. The activities of such companies, which often involve wrongful restraint, are illegal.
2. Enhance cooperation between the Ministry of Manpower (MOM), the Police and the Immigration and Checkpoints Authorities so that migrant workers who have legitimate claims are not arrested and repatriated because their work permits have been cancelled. Police officers and immigration officials should be trained to respond to the complaints of migrant workers. Instead of detaining and/or deporting such workers immediately, authorities should verify if the workers have outstanding claims and allow them the opportunity to lodge and pursue them.
3. Establish a help desk at immigration checkpoints for workers with employment-related claims. Immigration officials, police, and airport staff based at Changi Airport should be provided with training to sensitise them to detecting and preventing forced repatriation. The Government should also introduce a system of selective exit interviews by trained immigration officers to monitor the repatriation process and ensure that it is fair and voluntary.
4. Abolish the practice of employment bans on workers unless they are charged in court for a criminal offence. The current method, which places employment bans on workers based solely on an employer's negative feedback, is arbitrary and unreasonable. The work permit condition which holds workers accountable for actions which are deemed "immoral and undesirable, including breaking up families in Singapore" should also be repealed.

To Create a More Equitable Relationship between a Migrant Worker, an Employer and an Employment Agent

1. Amend the work permit conditions to give migrant workers the right to switch employers without requiring permission from current employers.
2. Work together with sending country governments to prescribe benchmarks and transparency on the amount of fees payable by a migrant worker for a job placement in Singapore. Establish a system where the process of recruitment and job placement are not monopolised by private recruitment agencies only and enhance the role state authorities can play in organising these processes.
3. Amend the Employment Agencies Act to make accreditation of all local employment agencies compulsory. A standard contract between the employment agency and the worker with clear limits on placement fees should also be one of the criteria for accreditation. The accreditation body should include representatives from unions, employer's interest groups, worker's interest groups, NGOs and government representatives. Sufficient funding should be given to the body to ensure effective and consistent enforcement of accreditation guidelines. Appropriate penalties for failure to adhere to accreditation guidelines should be instituted. Effective complaint mechanisms should be established and the accreditation body should hold the powers to investigate complaints. Workers should also be given the right to remain to pursue their complaints against errant agencies.

To ensure that workers have the means to a livelihood while pursuing claims

1. Extend the Temporary Job Scheme to all workers involved in protracted claims (for example, workers with Labour Court claims). The scheme should not be exclusive to those who are vrequired to remain as prosecution witnesses.
2. Strengthen enforcement against recalcitrant employers who do not pay the medical leave wages and medical expenses of workers involved in work injury compensation claims.
3. Increase enforcement of existing laws to ensure employers provide decent food, or a sufficient food allowance during mediation for salary-related and work accident claims. The costs of maintenance and upkeep should not be borne by the worker during the period of conciliation.

To ensure that migrant workers have a fairer chance of claiming wages due to them when their cases are heard at the Labour Court

1. Establish a department or a unit within MOM to assist workers in the enforcement of Labour Court Orders for free or for a nominal fee. It is not realistic to expect workers who are already experiencing financial hardship to pay legal and court fees in order to enforce these orders.
2. Amend the Employment Act to allow workers to claim for salary arrears that arise earlier than one year from the date of lodging the claim. Similarly, the time period for making a claim after a worker has left employment can be extended to one year and not limited to six months.
3. Disallow claims that are already heard in Labour Court from being instituted in the civil courts. When

employers have the right to pursue similar claims that are already heard in the Labour Court, it puts low-wage workers with limited access to resources at an unfair disadvantage.

4. Migrant workers may not be familiar with Labour Court procedures, how it functions and how to present their arguments. These should be clearly explained in printed form and made available in the various languages that they speak.
5. Establish a fund to compensate workers who are unable to claim any salary due to the employer's insolvent status. ■

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H.O.M.E.

The Humanitarian Organisation for Migration Economics (H.O.M.E.) is an organisation that looks into the needs of the migrant community in Singapore. H.O.M.E. was founded in 2004 to promote the safe migration of people in search of greater livelihood opportunities overseas. H.O.M.E. believes in upholding the dignity of the person, the dignity of work and the dignity of life and that these are fundamental human rights.

H.O.M.E. assists migrant workers through our helpdesks, legal aid services and shelters. In addition, H.O.M.E. is involved in public education initiatives, conducts research, runs skills training programmes, and rights-based education workshops for migrant workers.

For more information, visit www.home.org.sg.

TWC2

Transient Workers Count Too (TWC2) is a Singaporean society concerned with the wellbeing of migrant workers. Since 2003, we have promoted the rights and welfare of workers and good relations between migrant workers and employers. TWC2 engages in advocacy, research and direct services.

TWC2's website – www.twc2.org.sg – offers news of our activities as well as a lot of other information on migrant worker related issues. Membership is open to those who support TWC2's aims and pay an annual membership subscription (\$10 or \$2 for work permit holders).



www.home.org.sg



Transient Workers Count Too
www.twc2.org.sg