



TRANSCRIPT OF WEBINAR - 23 FEBRUARY 2023

Enforcing Migrant Workers' Labour Rights: Lessons from Trade Unions

Irem Arf 0:07

Hi, everyone. Thank you very much to all of you: all our panelists, speakers, and the audience joining us. I'm Irem Arf, the migration policy advisor from the [International Trade Union Confederation](#). It is a pleasure to open this webinar today which is organized with our friends from the [Migrant Justice Institute](#). We will hear many inspiring examples from trade unions about the work they are carrying out in different countries to help migrant workers recover their unpaid wages.

Before starting my introduction, I kindly ask you to mute your microphones if you haven't and note that again, this webinar will be recorded and shared with those who have registered.

We are very pleased to see such a strong global community interested in this topic, including those of you joining us today and as I have mentioned, we have around 400 people who have signed up to receive the recording. It would be great if you could, in the meantime, introduce yourselves in the chat box with your name, organization, and the country you are from. That would be really interesting for us to also see.

This work with migrant workers is very important for us, the International Trade Union Confederation, as, at this time, we are demanding a new social contract that delivers recovery and resilience, which is based on five specific demands, one of which is equality and inclusion. The new social contract that we are demanding cannot be realized without the equality and inclusion of all workers, including migrant workers. Trade unions have a big role to play to ensure that migrant workers' rights are respected, protected and fulfilled. This includes preventing and remedying wage theft, which remains a pervasive feature in the lives of many migrant workers unfortunately. While wage theft impacts both migrant and non-migrant workers in many countries, migrant workers are rendered more vulnerable to wage theft due to systemic problems. The [International Labor Organization](#) estimates that migrant workers represent 5% of the global labor force, but account for 15% of cases of forced labor worldwide. So, three times more than non-migrants. One of the most common and endemic factors of forced labor is the non-payment of wages; wage theft. Due to their often informal or otherwise unprotected jobs and their precarious migration status in the countries they work in, many migrant workers are vulnerable to abusive employment and wage theft. The risk of detention and deportation for migrant workers who complain allows abusive employers to withhold earned wages with impunity.

In today's webinar, we want to shine a spotlight on the experiences of trade unions from different countries in their work concerning recovering migrant workers' unpaid wages. First, we will have Bassina Farbenblum, the Executive Director of Migrant Justice Institute, who will set the scene for us based on global research carried out in 2021 on justice for wage theft. We will then move on to our panel discussion with distinguished trade union representatives from five different countries. We have guests from Germany, Hong Kong, Turkey, Australia and the Netherlands. They will discuss their own experience through specific cases they have worked on, and we will explore the key takeaways on what has worked and what hasn't.

Before giving the microphone to Bassina, some housekeeping information. During the discussion we welcome you to post questions for the panelists in the Q&A part. You are welcome to address your question to one of the panelists or to the panel as a whole. You are also welcome to post any comments or information in the chat throughout the discussion. However, if you post your questions into the discussion chat box, we may not see and share them with the panel so please, we ask you to put the questions in the Q&A box. After the panel discussion, we will have 20 minutes for the panelists to respond to the questions you put in the Q&A box. Without further ado, I invite Bassina to share with us some key findings from the Migrant Justice Institute's research on wage theft. Thank you Bassina, over to you.

Bassina Farbenblum 6:14

Thank you. Thanks so much, Irem and good morning, good afternoon, good evening. We're really delighted to host this very important discussion with ITUC and our partners at the [Solidarity Center](#), [ILAW network](#), [MIDEQ](#), [University of Technology Sydney](#) and [UNSW Sydney](#).

As Irem has noted, wage theft remains widespread and structural in industries in which migrant workers are concentrated throughout the world. Very few of those workers are ever able to recover the wages they're owed because migrant workers bear all the risks and burdens of addressing wage theft. First, a migrant worker bears the risks of losing their job and whether their visa will be cancelled if they take action. If they do take action, they bear the burden of putting together a case against their employer and producing evidence that demonstrates they were not correctly paid - extremely difficult to do when the employer is the one with all the records. Even if they reach an agreement with the employer or have a legal victory, they bear the burden of compelling the employer to comply with the agreement or enforce the Judgment. If the employer disappears or declares bankruptcy, as often happens, the migrant worker is left with the permanent debt of the unpaid wages and other businesses in a supply chain that benefited from their unpaid labor are never held to account.

These are burdens that individual migrant workers cannot bear. Migrant workers understand the risks of reporting wage theft, the burdens of making a claim and the very low prospects they'll actually recover the money they're owed. Most are acting rationally when they determine that they can't feasibly seek redress. As a result, the overwhelming majority never recover the wages owing to them. Collective empowerment of workers and unionization is critical to overcoming these burdens.

In Australia, we [conducted a survey of almost four and a half thousand migrant workers](#), and we found the majority had been paid less than the legal minimum wage, but only one in 10 took any action. The good news is that among those who did try to recover their wages, migrants who were members of a union were far more likely to have recovered the wages owing to them compared with workers who had

not been members of the union. Migrant workers who had been a member of a union were also three times more likely to have tried to recover their wages in the first place.

Of course, in many countries, migrant workers aren't permitted to form or join trade unions. In countries that allow unionization we still see many unions that don't view migrant workers as natural constituents. But as today's discussion will demonstrate, some unions are at the forefront of the most innovative and empowering work with migrant workers. This includes direct collective action to recover wages on behalf of groups of migrant workers by formal unions and informal or unregistered worker organizations, as well as representation by unions of individual migrant worker members in wage claims through court and government processes. Related to this, unions provide migrant workers with critical emotional and practical support as they deal with the stress and uncertainty of addressing wage theft. It would be great to hear from Philipp and Edwin about the strategies that they are successfully deploying to recover wages on behalf of migrant workers.

Unions are also driving change by spearheading advocacy for policy reforms and other systemic solutions that reduce the risks and burdens on migrant workers who take action and enshrine a formal role for unions in enforcing migrant workers' rights. As Irem mentioned, we recently conducted [a global study looking at promising initiatives](#) throughout the world that are reducing barriers to wage recovery for migrant workers, which revealed a range of innovations and opportunities for trade unions. We identified examples of migration reforms to reduce risks to migrant workers' immigration status if they report wage theft.

On this topic, Migrant Justice Institute has recently partnered with numerous unions and other allies in Australia on [a proposal for whistleblower protections](#) for migrant workers who bring labor claims against an employer. These reforms would mean that a migrant worker who has breached their visa could take action to address wage theft through their union without fear of visa cancellation. The reforms would also provide a short-term visa with work rights to migrants at the end of their stay, in order to pursue a labor claim through their union or through government or court processes. The Australian Government is currently considering the proposal and we hope that we will soon have good news to share.

Our global study also highlighted the employment and innovative work by unions and civil society organizations enabling migrant workers to pursue wage claims across borders after they've returned home and I'm very much looking forward to hearing more from Shiella and Kivanç and the innovative work that they're doing in this area. We'll soon be releasing more detailed policy guides with promising examples on each of these topics, so please keep an eye out for those. The study also identified creative initiatives across a range of jurisdictions to drive business compliance with wage judgments and reduce enforcement burdens on migrant workers. These include countries creating meaningful consequences for businesses that ignore wage judgments and broadening accountability for rectifying wage theft to businesses further up a supply chain, and I'm really looking forward to hearing about the union-lead example of this that Vivienne will discuss.

Our research has confirmed that the problems of wage theft and lack of access to justice are indeed systemic, but they're not inevitable. With around 400 people registered for this webinar and similar numbers for our previous recent webinars on opportunities to address wage theft for migrant workers, we're seeing the exciting emergence of a new global community seeking to learn from each other and increasing momentum to drive change in each of our countries. If you're interested in any of our

research or webinar recordings and other materials to support advocates on his issue, you're welcome to visit our website at migrantjustice.org. But I'm now very much looking forward to our discussion with our panelists and it's my pleasure to turn back to Irem to facilitate today's discussion.

Irem Arf 12:23

Thank you very much Bassina for the for this very informative, and also encouraging introduction. I mean, as you say, there are systemic problems, but there are also some solutions; innovative solutions, especially coming from unions. It's also really interesting to hear how unionized migrant workers are more likely to make wage claims and also then recover wages, which is one of the issues of course that they face amongst many others. Without losing time, I would like to introduce our panel and then I will go on to ask questions, but I also want to mention the research Bassina has mentioned: you can find the link to it in the chat box.

I'll start with Philipp. Philipp Schwertmann who is joining us from [Arbeit und Leben](#), which is a trade union affiliated organization with a focus on workplace-related education and assistance. Arbeit und Leben is run by the German Association of Trade Unions ([DGB](#)) and the [German Institution for Adult Education](#). Philipp, as the head of migration and decent work at Arbeit und Leben, supervises counseling offices for migrant workers in the Berlin and Brandenburg region, as well as the [National Service Center Against Labor Exploitation, Forced Labor and Human Trafficking](#). This national service is run by Arbeit und Leben on behalf of the German Ministry of Labor and Social Affairs. Thank you for being with us, Philipp.

I will introduce the whole panel and then I will come to individual questions.

Now I would like to introduce Shiella Estrada who is with us. She's the president of [Pinay Careworkers Transnational](#) and vice-chairperson of [Progressive Labor](#), a union of domestic workers in Hong Kong. She's herself a migrant worker since '85 and is currently working as a migrant domestic worker in Hong Kong. She's one of the founders of three unions established by Filipinos in Hong Kong, as well as the [Federation of Asian Domestic Workers Union](#) for local and migrant trade union of domestic workers. Pinay Careworkers Transnational is a newly established transnational union of Filipino workers founded by eight unions in eight countries with the objective to organize, educate and mobilize workers, in particular domestic workers, to pursue a dignified life. We'll hear more about Pinay's work from Shiella very shortly.

We also have with us Kivanç Eliaçık, who is the international director of [DISK](#), which is the Confederation of Progressive Trade Unions of Turkey. This is a union center with 200,000 members, a majority of whom are blue colored workers in the private sector. Kivanç is also a member of the Migration and Labor Network in Turkey on behalf of DISK. In this position, he brings together academics and trade unionists working on migration and forced displacement.

I now move on to Vivienne Wiles. She is the senior national industrial and legal officer, and co-coordinator of the [Australian Construction Forestry, Maritime, Mining and Energy Union](#) (CFMMEU). She has been involved with unions through community legal centers since 1991. Vivienne has worked as a union industrial legal officer since 2000, including 18 years with Textile, Clothing and Footwear Union of Australia until that union amalgamated with the CFMMEU and was actively involved in the union and community campaign to introduce textile clothing and footwear industry legislative reforms to the

Federal [Fair Work Act 2009](#), which was designed to regulate TCF industry supply chains, and in particular, the rights and conditions of TCF outworkers and home workers.

And last but not least, Edwin from the Netherlands. Edwin Atema, is joining us from [FNV](#). He is the head of research enforcement of FNV, which is the largest trade union in the Netherlands. Before Edwin joined FNV more than 10 years ago, he worked as an international truck driver himself while studying law. The fight for justice for workers could not wait until his study was finalized, so he started to work at the same time with the FNV. Edwin exclusively works in road transport and was one of the designers of the so-called Road Transport Due Diligence Model (RTDD) and now he's leading a road transport due diligence foundation that aims at investigating road transport and helping multinational companies to implement the due diligence in their road transport supply chain. RTDD Foundation interacts with migrant truck drivers across Europe on a daily basis, and gathered data from 5000 individual truck workers in 2022 only.

This is our very distinguished panel. I'm very happy to have introduced them now and I will now move on to my first question to Philipp. I would like to start with you first. Philipp, you assist thousands of workers at Arbeit und Leben every year and I understand that wage theft is one of the most frequent problems you encounter. It is amazing that migrant workers have received backpay of wages worth €100,000 last year through Arbeit und Leben's help and assistance. Can you tell us a bit about the scale of this problem for migrant workers in Germany and what the mechanisms are you are using to recover unpaid wages? Over to you, Philipp, thank you very much.

Philipp Schwertmann 19:02

Thank you very much Irem, for the kind introduction and thank you all for organizing this workshop. I think it's not an exaggeration to say that claiming back wages is our bread-and-butter business so to speak, and I was glad to have the opportunity to read the study you just presented and of course I was happy and sad at the same time to recognize many of the findings in this study.

Before I go a little bit more into detail about what we're doing, I just want to give you a little bit of information about the system in Germany because I think it's important for you to know in order to understand how we are doing our business. In Germany, the enforcement of labor rights is a purely private matter. So, it's a matter of employers and employees. Therefore, we don't have any labor inspectorate like maybe in your countries that helps employees to claim back wages. Also, unions are not allowed to sue employers on individual matters, even if labor law is systematically violated, like we have seen it, for example, in the meat industry in Germany. I think the good news is that in the last decade, more than around 60 trade union-related counselling services on labor rights for migrant workers have been set up all over the country. They are funded both by the Federal Government and the State Government. So, we have a kind of mixture of a trade union structure, which receives funding from the state.

We at Arbeit und Leben Berlin-Brandenburg, we run three of those counseling services in the Berlin-Brandenburg area that assist migrant workers with their labor rights since 2010. We also provide specialized support to people affected by forced labor and human trafficking for labor exploitation. Our service offers counseling in 12 languages, it's free of charge, of course, and it's confidential. In the city of Berlin, we consult around 5000 workers each year and the problems, as Irem already said, around wages

are amongst the most frequent. Last year, to give you just one example, we received more than 1000 requests concerning unpaid wages and about 220 requests on forced labor and labor exploitation.

Due to our intervention, roughly €128,000 of wages have been backpaid to workers only last year. This is at least part of the paid wages we learned about. We see that around 20-40% of the workers do not report back to us about payments. This sounds like success at first sight, and in every individual case, it is a success, however, this is only a tiny part of the whole picture. We see that a minority of very resolved migrant workers find their way to us, and many of them, even if we claim the back wages, receive only parts of their due wages, or they do not report back to us. So, we can only imagine how great the total damage that is caused to workers by not paying their due wages.

Wage fraud, as we call it in Germany has many faces and I just want to give you a couple of examples. We see that when migrant workers leave the country after their employment ends, the last month of employment is systematically not paid. That's like a rule. The same happens very frequently, if workers quit their job, they don't get their last payment. If workers get sick, for example, the wages for sick leave are not paid, which is of course illegal. In agriculture, we see wages paid per piece in order to undercut the minimum wage. But the workers don't have any control over the amount of fruits and vegetables they have picked and if there is nothing to harvest, they don't get payment, which is illegal, of course and they still have to bear the cost of accommodation and food. In cleaning and hotel cleaning, for example, we see the same: that people are paid per room they clean also to undercut the minimum wage. In parcel delivery we see very frequently that untransparent and not justified wage deductions are made due to alleged damages or penalties.

So, to end my discussion, I just want to give you a little insight into how we proceed. The first and very important step is, of course, to investigate the employment: to find the employer to see if there is a contract (many times there is no written contract), to get an idea of the working time, see if there is a collective agreement that applies to calculate and to claim the back wages. This is sometimes very difficult work because many employees just have a telephone number and the name of the employer and then you have to investigate everything, in a way. Another problem we face is that the employer simply disappears; he files for bankruptcy and then opens another company applying the same employment practices as before and then, of course, it's difficult to enforce the back-paying of wages.

If there is a chain of subcontractors, which we see very, very frequently, in Germany, we have the rule that in certain industries for the minimum wage, there is a liability of the general contractors, which allows us to directly claim back wages from the general contractor, and the general contractor is most a well-known company, that is, of course, afraid of bad reputation. So, it's quite easy for us to apply pressure on the general contractor and therefore, wages are pretty easily paid back to the workers.

If the wages are not paid after claiming them, we, of course, we collaborate with the media; we make the case public. In many cases, the employers are very afraid of that, and they at least pay parts of the wages. Of course, we also tell the employer that we will report the case to law enforcement authorities, especially the customs authority, which is also sometimes very helpful to get them to pay the back wages. We are not, which is also important, allowed to file a lawsuit, but we can assist the workers to do so him or herself.

So, all in all, I think we're pretty successful in providing a low threshold approach for migrant workers to claim their rights. Thank you very much.

Irem Arf 28:20

Thank you, Philipp, for this very informative information on the situation in Germany and how you are trying to address it. It's also interesting to hear that there is at least a strong possibility to directly engage the general contractor and that provides a bit of leverage. Thank you very much.

I would now like to move to Shiella. Shiella, I understand that it is estimated there are around 350,000 migrant domestic workers in Hong Kong and majority of them are from the Philippines, and again similarly to Germany, wage theft is a frequent problem these workers are facing and especially during the height of the COVID 19 pandemic, where this became almost an endemic issue. Can you tell us how you and your union, Pinay, are supporting these workers to recover their wages? Thank you.

Shiella Estrada 29:39

Thank you, Irem, and thank you to all panelists also who are going to share with Irem and thank you for inviting us, Pinay, to this webinar today.

In Hong Kong migrant domestic workers are also included in the Hong Kong laws and rights and protection. We also have all this kind of protection like the local workers have. But there's still a lot of dilemmas for our migrant domestic workers, there are policies that are not in line with the labor laws. What I can say is, we have policies that are not implemented to the locals or to other migrant workers in Hong Kong but are only implemented to the domestic workers. Like, for example, the 14 days, we can only stay home for 14 days after the termination of contracts. So, this is one hindrance for us to file cases. But under the [Employment Ordinance](#) of Hong Kong, we can file cases, we can claim and recover our wages and other entitlements if our employers are not going to pay us.

So one mechanism that we're using is we're going to find a case in the Hong Kong Labor Department where there will be a conciliation meeting with employers and if the conciliation meeting was not successful in the Hong Kong Labor Department, Hong Kong Labor are going to tell us to proceed the case in the Labor Tribunal where there is already a Judge and the worker and employer to have the case settled face to face. On the first hearing, it will aim for settlement, but if it is not going to settle, then the cases will be heard.

So, while we're having the cases to be heard, of course, it is not easy for migrant workers because it will take time. Usually, if we filed cases in the Labor Tribunal, the fastest one takes about six months, if the employer is not going to agree on the settlement with the worker. So usually, the domestic workers will give up cases. So, we always have these kinds of experiences that they really want to get the wages to claim their entitlements, but it's quite hard for them to stay in Hong Kong, because we have to bear all the burdens like housing, the daily cost of living, and, of course, visa fees. But the problems that we face are, usually we cannot find a job while having an ongoing case. It is prohibited in Hong Kong to find a job while you pursue your case.

So, what we're doing is that if the case is already in the Labor Tribunal, the worker we're going to be representing, if they need to go back home, we're going to represent the union officers and we're going to represent the worker in the Labor Tribunal. Then the case will be heard until there's a success case or until there's a settlement. But in the Labor Tribunal if there's no settlement, again, we proceed this to the Employment EOC; the Equal Opportunities Commission. But it is more burden, the Equal Opportunities Commission, because there's another conciliation meeting there and if the employee will

not come face to face or never answers the Equal Opportunities Commission Department, then it will go for a hearing in the District Court. Usually, in our experience in the District Court, it takes years before the first hearing will be scheduled. So, this is why sometimes we still do employer-employee conciliation settlements. Especially for those who did not go through the employment agencies, we are going to ask the employer to settle with the worker, but then, the worker is interviewed by the Union Officer about how much she's claiming and what entitlements are requested for her so that we know how to compute the wages and entitlements for the claim. If this has not been settled, that's only the time that we bring them to the Hong Kong Labor Department.

Usually, because domestic workers can only stay for 14 days after termination, we usually settle more in employment-employee conciliation. Then, if there is also the new arrival domestic workers who have been terminated in few months' time, we usually go to the Philippine Consulate. We will seek help from overseas employment; from the POLO, the Philippine Overseas Labor Office. Then they will be the one to go for a conciliation meeting with the employer and the worker. If this is not going to be successful in the Philippine Consulate, we bring the case to the to the Philippine Overseas Employment Administration on the Philippines side, but we need to have a docket number to make it easier for the worker who went back home to claim through the employment agency who has been their agency when they came to Hong Kong. So there is this kind of process that we are doing, and the last one that we have also experienced for these years, because we partner with [Justice Without Borders](#), we have cross border claims, and if the worker already went back home, she could still find the claim and then it will be represented by an officer of the three unions. Then the case will push through to the Hong Kong Labor Department and the Labor Tribunal.

So, as I said, we have so many parts we are using just to claim all these unclaimed wages and entitlements for migrant domestic workers, because it's quite hard for us to stay. It's very expensive, it's very costly, especially in Hong Kong, which has a very high cost of living alone. So what we usually do is try to settle with employers, because usually, like what you have said just now, especially in the time of the pandemic, there's a lot of termination of contracts, especially if you've been sick or if you've tested positive for COVID-19. Also, usually employers will not give us sick leave even though in the labor laws in Hong Kong, we are entitled to sick leave; we must have sick leave as one of our protections in Hong Kong. Especially during this time to be safe, our employer must not terminate our contract or else it's a violation of the Employment Ordinance. But as I said, some employers are not clear about Employment Ordinance, and we really want to take away all those laws and policies that were there, because they know that migrant domestic workers are going to stay for a longer time to force their cases in Hong Kong. So, what we're doing now is we're getting the union officers to be trained as representatives in the Labor Tribunal in the Hong Kong Labor Department so that all these cases regarding not only wages, but other entitlements, can be claimed by the by the workers before they go back home or after they are already back home.

We have a very historical case, we have a case for six years and it's the first time in history that the Hong Kong government has allowed us to use technology in court, where the domestic workers already went back home, and then he or she can now give the testimony via technology. So, we have experienced this. So we think it's possible for us to push through all these kinds of experiences also in other countries. That's why Pinay was also established.

Maybe our experience in Hong Kong can be done in other countries, especially with those countries who don't have labor protection for migrant workers. Thank you.

Irem Arf 40:12

Thank you, Shiella, I mean, you put it very clearly, there are limitations on making claims to ask for rights and justice, there are difficulties migrant workers face, but then you're trying to overcome them in different ways. It's really interesting to hear about these cross-border claims where you're training trade union representatives to become representatives of workers who have already departed and are no longer in Hong Kong. It's very interesting. We can explore more on this in the Q&A. But I'm moving on to Kivanç because of our limited time.

Kivanç, first of all, our solidarity with all those impacted by the devastating earthquakes in Turkey. It's really devastating. Many of the 4 million refugees in Turkey have been living in the cities most affected. This is not the topic of today but we'd be very interested in, if you could update us a little bit on the situation there. Then, my question to you concerns, of course, this work with migrant workers from Turkey, who are working abroad, and how you have been cooperating with the unions in destination countries to enforce migrant workers' rights and relating to wage theft. Over to you Kivanç. Thank you.

Kivanç Eliaçık 41:48

Thank you, Irem. Greetings from Istanbul. Good morning, or good afternoon according to your time zone.

So, after the earthquake on February 6, we received many messages of solidarity and condolences from the International Trade Union movement. For instance, we have spokespersons on the panel, the German DGV and Dutch FNV. Those two sister organizations with whom we cooperate on various issues, including migrant workers' rights, we received their condolence message and solidarity. Thank you comrades. Dankeschön.

So, the epicenter of the earthquake was near the Syrian-Turkish border, on both sides. Turkey in the North, and Syria in the south are areas where refugees, migrants and also IDPs stay. Due to the war in Syria, around 4 million Syrian refugees live in Turkey, and 1.7 million of them are located in the cities affected by the earthquake. In addition, there are about a million migrants on the south side of the border in Syrian territory. About 10% of the population affected by the earthquake in Turkey consists of refugees. It's estimated that approximately 10,000 Syrian refugees lost their lives in the earthquake, and it and it goes without saying that a refugee worker in Turkey is working for lower wages, in worse conditions than his or her Turkish co-workers. They could not benefit from fundamental rights such as social security, job security or health and safety issues.

After the earthquake some of the Syrian refugees returned to Syria, others, who lost their homes and jobs moved to the West. This is also the same for Turkish students and workers who lost their homes, jobs, but also job opportunities to migrate to other States. This will soon expose us to a new phenomenon of labor migration, both in Turkey, but also throughout Europe.

So I want to get back to our topic by expressing my sincere condolences to everyone who lost their relatives in the earthquake. The effects of the earthquake will be an issue about migration and migrant workers. So, thanks for giving me this opportunity to talk about the earthquake.

So, for us, the configuration of progressive trade unions of Turkey, working with migrant workers abroad is a duty but also leverage. Workers from Turkey have been working abroad as guest workers, Gastarbeiter or migrant workers for decades. So, our struggle for the rights of migrant workers, opens new possibilities for our struggles with foreign companies in Turkey. We recruit new rank and file members during these campaigns and make new connections and new contacts in international trade union movement. But while talking about migrant workers, their rights and violations, there's a question that we have to ask: why do bosses hire migrant workers to pay lower wages, to avoid responsibilities, to pay less premium social security systems? They think that migrant workers will remain silent in the face of violations. They believe migrants are not union activists.

So, this by itself is a wage theft, or more, this is a corporate robbery. We are talking about a corporate robbery. So, when it comes to migrant labor violations, poor working conditions, the Kafala system in the Gulf countries comes to mind. But Kafala is not unique to this region, there are different levels of Kafala system, all over the world. Some with democracies, some are more despotic. Confiscation of passports, no payment until the job is done or the disappearance of the employer: these kinds of violations are happening everywhere. So as Turkish trade unions, we experienced such examples in construction plants in the MENA region; in the Middle East and North Africa, especially in Saudi Arabia, and especially in the call-to-action plants. In these cases, when there is a violation, or detained salary issue, we contact the trade unions, if there are any in these countries, or we make coalitions with human rights organizations as well, and we help workers to organize strikes, or sometimes they occupy the plants.

We don't experience such events only in the MENA, or only in the case of construction subcontractors. There is an example, in 2022, only last year, in Belgium, in a chemical factory of a global company of Turkish workers who are subjected to human trafficking. This happened not in the desert, but in the Central European Union. Workers were given the wrong type of visa, promised wages were not paid, the job was done, the boss disappeared, and the workers were evicted from their house. At this point, we contacted Belgian labor lawyers and the Belgian trade unions. Union members of Turkish origin living in Belgium had to organize protests. We also mobilized workers at the plant who came from different countries; countries like Bangladesh, Nepal, and even Ukraine. So, meanwhile, we followed the company's commercial relations and partners in different countries. We found some business partners in Italy, Austria and France. So, we contacted the French and Italian authoring unions. In this case, we combined street protests, legal efforts in the courts, and traditional union solidarity. Finally, these migrant workers - Turkish workers and others - received their detained salary and they got official work.

So, long story short, during our campaigns about the rights of migrant workers, we use different languages and different cultural instruments; we enjoyed ITUC, the International Trade Union Confederation channel, as well as bilateral relations between trade unions in different countries; and we formed coalitions between trade unions, migrant organizations and human rights organizations. These experiences remind us again and again that exploitation has no borders. That's why we need international solidarity to defend the rights of migrant workers. That's all for now. And thanks again for your invitation.

Irem Arf 49:41

Thank you very much Kivanç. It's also really important, as you say, you know, we hear about the violations in certain countries, but actually it takes place everywhere. And it's important to recognize

that and our panelists mentioned this and it's also really interesting how this combination of solidarity and campaigning with other trade unions from different countries as well as human rights organizations helps to pressure a solution. You do this both at company level but also through the government, because, as you mentioned, official visas were then provided, which is really important. Thank you again.

I'll now move on to Vivienne. Vivienne, I want to go ahead with you. We know that CFMMEU, has a long history of organizing outworkers in the textile industry - outworkers meaning workers who are not in workplaces, but mostly at their homes - in Australia, and who are often migrant woman working in their homes. We also know that you have been able to successfully hold businesses up the supply chain responsible for remedying many workers' unpaid wages when their direct employers do not pay. Can you tell us about how you have been able to do this and how the Union's work in this area has led to systematic changes in business behavior? Over to Vivienne. Thank you. Vivienne, we cannot hear you unfortunately. Can you try again? We could before so. Oh, it works now I think.

Vivienne Wiles 51:54

Vivienne Wiles 51:54

Thank you, Irem, and thank you for the opportunity to participate in this webinar. It's a great opportunity. And yes, I'm just in awe of the other participants.

Most of you may not know this, but outwork is fundamental to the clothing industry in Australia and the great majority of outworkers in that industry are migrant or refugee women. The outwork community is particularly vulnerable to abuse and exploitation and wage theft. Due, most obviously to the fact that they work from home, they often exist outside of the mainstream labor market and typically have very little access to support, information and education about their rights. The unions that I've worked for over the last 23 years, we have consistently grappled with what is the best way to firstly organize outworkers in the TCF industry and then secondly, to ensure that they receive a living wage and fair entitlements and other conditions.

We've employed a lot of strategies over the years, it's been a bit of trial and error and some haven't succeeded and we've really sought to learn from those things that haven't worked as well as we'd hoped. Some of the things that we've looked at and employed over the decades have been community-based organizing within outwork communities and we use outwork outreach officers to assist us with that. We've initiated legal and industrial prosecutions in our courts, and we've initiated test cases about improving our industrial instruments and legislative reform as well. In my experience and in the Union's experience, it's the combination of those strategies that's more likely to have a practical, positive impact on the ground for TCF industry outworkers.

Just historically, I'll be quick about this, but during the 1980s right through to the early 2000s, the Union was very active in trying to improve our industrial awards. For people outside of Australia an award is an industrial instrument which sets the minimum wages and conditions for a sector or industry; a sort of minimum floor of conditions. The Union, over many years, progressively built on those protections in relation to the giving out of work in the industry and the minimum conditions of outworkers.

The other thing that we did is that we did initiate, every couple of years, what we call a batch of prosecutions in the Federal Court where we would prosecute anywhere between 25 and 30 companies.

Usually, they were fashion houses that had a known brand and so, together with those prosecutions, we would have quite a strong media strategy. So that really was a kind of naming and shaming strategy to get those major fashion houses to the table to clean up their supply chains.

The industrial award that I spoke of before, it's fairly unique in Australia in that it contains a comprehensive framework ([Schedule F](#)) that specifically addresses the giving out of work in the industry and the position of outworkers. So, what it aims to do is, in its provisions, mirror exactly what a clothing supply chain looks like. It's designed to regulate each level of the supply chain and has a cascading set of obligations. So, each time a person or entity gives out work within the chain, then the sets of obligations attach to them, as it goes down through the chain. The idea of that is to really, fundamentally create transparency in the supply chain, and that permits the Union to map the supply chain in some detail. Through that, we can work out how much work is being given out, to how many workers and under what conditions. So, we try to capture that in our mapping. So that's the award.

We've also been very active in legislative reform, and we had a window of opportunity - I think this is one of the lessons that when you do have an opportunity, you kind of have to go for it - we had an opportunity in 2007, when a relatively progressive Labour Government was elected federally in Australia, after 11 years of a very conservative anti-union Government. And prior to that Labour Government being elected, the Union effectively locked in the opposition when it was in opposition to a commitment to legislate to protect outwork conditions and wages once they got into power. It was a few more years before that happened and then in March 2012, that legislation was passed to the Federal [Fair Work Act 2009](#).

So, in summary, there's three main relevant areas of that [legislation](#).

The first was to [legally deem](#) all outworkers as employees for pretty much all the purposes of the Act. So, one of the key contributors to the exploitation of outworkers in Australia, and of course in many other countries, is that they're treated not as employees and therefore have no legislative rights. They're treated as being independent contractors, or somehow running their own businesses. So, this deeming set of reforms really aimed to pierce what was a very systemic phenomenon of sham contracting. In my view, that was really the major success of the reforms. What that means in practice, is that it really just cuts through all the arguments that the employers would say to us at the Union, which is: 'well that outworker is not an employee, and therefore I don't offer minimum wage or any leave entitlements, or any superannuation, or any other protections'. What the law now says is that: well, it's really irrelevant what that person thinks. They could be an outwork contractor, but they are still entitled to the minimum conditions as if they worked in a factory.

The second major reform was that the Act now includes a mechanism for outworkers in the TCF industry to [recover unpaid remuneration](#) up the supply chain. And again, this is a fairly unique provision. As most people will probably not be surprised to learn, in many cases outworkers are at the end of a very long supply chain, but you know, the person who engages them is often very low down and typically outworkers wouldn't be paid or they would be underpaid or there would be delays in payment. So, what this recovery mechanism allows the outworker - but usually the Union on their behalf - is to jump over the first engager and go up through the supply chain and make a claim against what's called an 'indirectly responsible person or entity'. If that entity or person fails to make good the money, then the Union and the outworker - but typically the Union - has standing to take that matter to court. What this provision has meant is that it's given the Union enormous leverage and power when we are actually

representing and advocating on behalf of outworkers who owed money because we can just point to this mechanism, and basically say: 'well, look, you know, you can come to the table and address this underpayment or the Union will take you to court to get it'.

The third main area of reform was about enhancing [union right of entry](#) in the TCF industry. In Australia, there is what's called a general right of entry, which unions can access. But there's some major limitations on it. We've got to give at least 24 hours' notice and they need to have a member in the workplace. So this model right of entry really was very ineffective in dealing with investigating wage theft for outworkers. So, we can now go in without notice and we don't have to have a member; we don't have to identify an outworker, for example. So, to give you an idea, we could go into a major fashion house or brand and ask to see all their records in terms of the work that they're giving out and in that way, too, we don't have, as I said, to identify an outworker.

I've most probably gone over time here, I'm sorry, I'll be very quick.

So how has all this impacted on the Union's capacity to recover wages and other entitlements for outworkers? Having a strong national award and specific TCF laws for the TCF industry really has been a game-changer, because it means we've got a really strong underpinning behind us. And also, the other thing that we do is that the way we approach mapping and enforcing entitlements is that we use our investigation powers at the top of the chain to get documents and information and we also get intelligence at the level of the outworker. So we were really working from both ends of the chain to really get the intelligence so that we're in a good position to then enforce peoples' rights.

I might stop there. I think I've gone over time. Sorry Irem.

Irem Arf 1:03:19

No, thank you very much Vivienne. The examples and the information sharing is so interesting, I didn't want to cut anyone off. But we'll see how we go on. It's also very interesting to hear how this systematic change came about. I mean, years and decades of work and pressure and then, you know, legislation and how much it's changed. It changed the field. The hands of unions and workers, ultimately, it's really positive to hear this example.

Now, our last but not least, panelist, Edwin, I want to ask your question. You have been working with migrant transport workers in the Netherlands for a long time, and I understand one of the challenges, similar to the issues that Vivienne has shared, is determining and addressing the employer who is responsible in cases of wage theft. Can you tell us how you are working with migrant transport workers around this issue, and how you're supporting them? Thank you.

Edwin Atema 1:04:46

Yeah, first of all, thank you for the invitation and as we've heard, the other panelists are really inspiring.

A short correction, I work basically in the whole of Europe, so the work of the Due Diligence Foundation is not only exclusively working in the Netherlands, but our scope is the whole of Europe. With that, the European labor market basically doesn't exist anymore, more that you have a global labor market where member States are free to allow workers from third countries to get employed there. Europe is so fragmented now, the new modus operandi of companies is get good workers outside of Europe, employ

them in member State A - and that's mostly Eastern Europe - and then send them to work in Western Europe.

That brings me to the first issue. So, engaging with workers has more layers with migrant workers. First of all, there is a language barrier, a cultural barrier and these days in European trucking, we see drivers from the Philippines, India, Sri Lanka, Central Asia and former Russian speaking countries like Ukraine, Belarus and Moldova. So, we as a trade union movement also need to develop ourselves like a chameleon, not only to verbally engage with these workers, but also to understand those backgrounds. We think only if we can do that as unions, we are capable of properly engaging workers, because before we can remedy we must work out where a worker wants to go.

For the non-European listeners, if I speak to my colleagues in Asia or Africa, they're often jealous of Europe with a high threshold legislation. Many people from outside of Europe think it is a social Valhalla because we have laws for everything. So, in theory, it's true, Europe is highly regulated. From a European perspective we've got directives and regulations, as well as on the member States level. But now Europe is so fragmented. Our piece of Europe is maybe a quarter of Australia, and we have 27 jurisdictions, and in road transport we have 40 or 50 nationalities of drivers. So, if my team works on parking in the Netherlands, and we knock on the door of a member in Lithuania, nine out of 10 chance that a non-EU driver opens up the door. Our reality is then that we engage with, let's say workers from Kyrgyzstan, employed in Lithuania, who exclusively work in Western Europe and have a contract in languages they cannot understand. They are basically misinformed by their employers. So that's a symptom, what happens if we knock on the doors, but if you helicopter out, these are not isolated cases, this is a business model of companies who know how to get away with it.

If you then speak from the remedy perspective, we see remedy as three layers. First of all, that remedy on a base level and individual worker level can be carried out with legal actions. Other than in Germany, for example, the unions can carry out class actions even without the identity of the workers; we can take companies to court. We can also represent individual workers, no matter where they come from, if they're affiliated to the union or not - we can and will represent them. But what we learn in these legal battles, is that it's really interesting to shake the European tree. We have all this legislation and nobody seems to be responsible for its enforcement. We as unions take our responsibility seriously. But the proper conclusion on is that these are spot-fire cases, because there is so much money behind this from a corporate perspective.

So we have a case of Hungarian driver, which is now going into its 12th year in court; 12 years from the European Court of Justice to the Supreme Court. So, what we uncovered is that that's a tool we still need to use, but if we helicopter out again, these are supply chain issues. All these workers' stories will only continue because the supply chain allows it. So, what we developed with the ITF – [the International Transport Workers Federation](#) - and the IUF – [the International Food Worker Federation](#) – is a diligence strategy. Because we think in a way, these drivers are formally employed at their company where they sign the contract, but basically, there is an economic employer on top of the supply chain. Without IKEA and without the economic activities of IKEA and without their contracts, these workers would not work. So, we shifted it from the factual employer into the economic employer, who is at the top of the supply chain. That's also one of the characteristics of Europe is that with all those cross-border activities, employment relations are hyper-international and workers are hyper-mobile; they work in three different European member States with different jurisdictions in one day. So we can never as a union

find these malpractices from a national perspective given companies cross-borders. We must think and work across borders.

Secondly, within all those nice laws and regulations in Europe, corporates at the top of the supply chain often think, oh, this is very good regulation, the companies we contract will never do this, because there are laws which prevent it. Now, that's clearly not the case. In road transport, with funding of the Solidarity Center, the foundation carried out research on truck drivers from Central Asia. Last year, we interviewed about 200 drivers from Kyrgyzstan, Uzbekistan and Tajikistan where all workers have indications of human trafficking and forced labor. There are literally workers dying in their trucks.

We will keep fighting for these individual employees, but the only route to workers' victory is supply chain accountability and this can only happen when we have around the world and in Europe and on a member state level, sustainability regulation and sustainability standards. These are in the OECD, ILO guidelines and UN Guiding Principles. In Germany, we have an upcoming due diligence law, hopefully we will have a due diligence directive in the EU. But, these laws, regulations and intentions can only be executed if workers are involved. Workers' involvement in Europe means, from my perspective, that unions need to look further than they ever did.

In some Member States' jurisdictions migrant workers are seen as a problem. In my perspective, migrant workers are not a problem. Migrant workers are the only solid reference to fundamental things the supply chains do to workers, and that's why we need to engage with workers and invest in new methods to organize them and to engage with them. This is because, from a different perspective, the collective agreement for road transport, gets a base salary of almost €3000. Workers from Kyrgyzstan, get maybe not even a third of it. So, if they can even get double, it will be a victory for them already because they have more money to send home. So, from a national perspective, we can say okay, but these workers can only be satisfied if they get what we get. That's not the way we will engage workers, we must be smarter and look to the political background and move like a chameleon. It's really the formula we use when thinking across borders.

Regarding road transport and what the history of European labor markets tells us, road transport is a canary in the coal mine. What happens in road transport will happen in other industries. For some of the drivers in the EU, all market mechanisms will show that where there is a shortage of something, the price will go up. Not in European road transport. As prices go up, companies are going to benefit, but labor conditions do not go up. There are new methods of recruiting drivers from even further East and exploiting them even more. In our Central Asian study, we remedied and managed to get wages for workers and we managed to get workers official papers of human trafficking, but there is also a hole, a fundamental issue if there is one driver from Central Asia or Turkey or Ukraine. This issue is here with the clear, corporate-driven model behind it.

Let me see, how much time do we have left?

Irem Arf 1:15:18

I would actually like to move ahead, but we will have the Q&A session so you can add there if there's anything else you wanted to share. This is, again, really interesting Edwin, thank you so much. We all talked about systemic issues and the need to change, you know, on the one hand, individual work with cases and workers, but how can we make a systemic shift in how things are working, and this link over

supply chain and accountability within that? It's really important for migrant workers, but all workers. Thank you all.

I will ask you all to give a one key takeaway from your experience to our audience: what would you recommend? What would you suggest doing or not doing? What is one key takeaway from your experience? But I will now pass on the word to Bassina to moderate our Q&A session. During that session, I will ask you to give this one key takeaway, if I may, thank you all. I will be back to close the session. Thank you.

Bassina Farbenblum 1:16:50

Thank you so much, Irem and thank you to each of our wonderful panelists. I know we have a very short time, so I'm going to jump straight to the Q&A.

Vivienne, a question for you: are you able to say more about the campaign that ultimately led to the adoption of the reforms? And maybe also to speak to this question of how do you organize migrant workers and what is your key takeaway? And obviously, you've done this very successfully. Is there one lesson you could share with others on how you've been able to do this so effectively?

Vivienne Wiles 1:17:22

Thank you. Yeah, I think the key thing is that you just have to get transparency up the supply chain, and until you do, it's all very difficult because that for us, I think that's the key thing. In terms of the campaign, it was a decades long campaign, the Union was involved in getting research done; there was a [Senate Inquiry into garment workers](#). It's all of those things had to come together to make out the case as to why specific laws for outworkers in the TCF industry was critical, because the existing industrial framework wasn't fixing their problems, and it never was going to fix their problems. In particular, that issue I said about basically deeming all outworkers to be employees for the purposes of benefits, including minimum wages.

Bassina Farbenblum 1:18:20

It's certainly a very impressive and effective model. I'm going to move quickly on to Kivanç. A question for you on how you organize migrant workers in the MENA region, particularly, obviously, where unionization and freedom of association is so limited? And maybe while we're with you, if there is one takeaway from your work that you would share with others; a lesson of either something positive or some challenges, we'd love to hear that as well.

Kivanç Eliaçık 1:18:49

So, in the Turkish case, our experiences from the Turkish migrant workers in the MENA region, is that some of them are working in some countries where trade unions are totally illegal, not covered by the NLOs or Constitution. So it's not possible to organize them over there, but we have some direct actions we take like talking with their lawyer or with the authorities. So, this is a very basic kind of trade unionism. But in some countries, there are trade unions and migrants can join them. So, we help them to find the local trade unions and get them to become rank and file members. Meanwhile, we are organizing their families to get back home because when they have a family member abroad, earning money for the family and the breadwinner of the families is in the picket line or striking, he or she is thinking about the family at home. So, Turkish unions are taking care of the family at home. So, this is

another way, but the main thing is we are creating coalitions with the local trade unions in those countries, and we have some good partners in the MENA region. Some are members of ITUC in some countries. Thank you.

Bassina Farbenblum 1:20:25

Thank you very much Kivanç. A question now for Philipp and obviously your one takeaway would be very welcome as well. We've had a question from the Korean Metal Workers Union, asking about the general contractor's liability for minimum wages, could you tell us a little bit more about that law and how you use it? And I guess also, a number of speakers have brought up sort of naming and shaming of more recognizable corporations, and whether that's something that you use as part of that law holding contractors accountable?

Philipp Schwertmann 1:21:02

Yeah, thanks. I think that there are two issues. I mean, it's a good thing to have a regulation like the general contractor's liability where you can sue the companies and this was introduced, I think, in 2002, to avoid irregular work in the construction industry, and it has been extended since. Of course, it was a great success when the minimum wage in Germany was introduced very late, it was said that general contractor's liability also applies for the minimum wage and the trade unions are now strongly advocating for the further extensions of this regulation, because it's incredibly valuable for us, of course.

In terms of the naming and shaming, of course, that's what we always do, it's much easier if it's a big company. But we see that other companies, they follow closely when we shame another company, and then they kind of assess their risk to also be shamed by one of the counseling services. So that's a really important part of the work.

My takeaway, maybe briefly, I don't want to bring any new takeaways in, I just want to echo what has been said already. I think the organizing of workers is extremely important and I think trade unions in Germany have to learn a lot, and they can do much better in their approaches. I think the structures and what they offer is still not where we would like to be and therefore it's really interesting to hear what you guys in other countries are doing. Of course, the old issue is that the transnational membership in trade unions has to be extended, I think that would be a key element for strengthening migrant workers' rights.

Bassina Farbenblum 1:23:34

Thanks, Philipp. That's a perfect segue to a question for Shiella about Pinay, which obviously has branches across borders in eight different countries. Can you tell us how you achieved that sort of union that in itself is cross-border? We've heard a lot about unions working with each other - national unions in different countries - but your organization is a union across eight countries. Can you tell us how you achieve that with migrant workers?

Shiella Estrada 1:24:08

Thank you Bassina. It's a combination of 17 years of organizing work and education for poor domestic workers, migrants especially. It's not easy, but we believe it's possible. So, we try to organize different nationalities in trade unions in Hong Kong, because in Hong Kong we have a law allowing us to organize the union for migrant workers; we have the freedom of association. That's one thing but, we also

believe in the other countries who don't have freedom of association, we can create organizations of workers so that we can give education to empower them on their rights and welfare, especially regarding the protection where the migrant workers are working; in the destination countries. That's the big dream that we had 17 years ago.

So, we did try to expand, after Hong Kong was successful, we went to Macau, and then we went to Malaysia to organize Filipino domestic workers, and then we did try to go to Taiwan, and then we tried to go to the MENA region. So, with the partnership with the [International Domestic Workers Federation](#), we achieved this by the support of our partners in the Philippines, the Central, LO Norway and DGB in Germany. They are the ones supporting our education program and our organizing activities. This is how we created Pinay and we are still on the way to reach out more, to organize more and especially in countries of destination, because we know, everywhere there are Filipinos in a country of destination.

To lessen abuse and to lessen discrimination and exploitation, we really need to empower workers, and continue to organize workers, and of course, in solidarity with our partners and other trade unions in different countries, to share strategies to learn more, and improve more and develop new strategies. This is a good thing for us. Then to continue loving and advocating better protection and a decent life and living condition for all workers, and of course, our family. So, we did try, not only in the country of destination to do advocacy and loving, but also in our own country, because we believe that our own country must protect us before they bring us to the other countries, especially to those countries without any protection for us.

Bassina Farbenblum 1:27:34

Thank you so much, Shiella, and your work is incredibly inspiring.

Just a very quick final question to Edwin. I don't know if you could answer this in one minute, but a question about class actions on behalf of migrant workers and how you actually identify those workers and find them afterwards and get the money to them, particularly migrant workers who may have gone home and it may be difficult to keep in touch with them later?

Edwin Atema 1:28:01

Good question. A general answer, which I've also implemented in my previous company, is to communicate with them in their own language, and, with modern communication and WhatsApp, Viber, Facebook, whatever, it's way easier to keep in contact with migrant workers than it was before. I think that as trade unions, we can help way better to keep these communication lines. I also think transferring money to migrant workers all across the globe in these modern times, it's not so complicated.

The general view is that we as unions must think more outside of our comfort zone and try new things. Simply start engaging with a strict strategy and clear commitments. One thing that is so important with migrant workers is that if we bite employers, we can never, never, never, never let loose. However, frustrating it is for migrant workers from Hungary and Romania, where their case is 12 years to trial already, they saw that the union brought their case to the court, they saw that the union sought protection from the European Court of Justice, and besides that they did not have a single euro in money. They see this Union bites for us, with us and never lets loose. I think that's the silver bullet to take away.

Bassina Farbenblum 1:29:36

Thank you so much, Edwin. And that's a wonderful way to end. Thank you to all of our panelists for the incredibly inspiring work that you're doing. May you all keep biting and not let loose. I think one lesson to take away from this from everybody is really the importance of these cross-border connections and global solidarity to really support and empower workers throughout the world.

I'm going to turn over now to Irem to conclude.

Irem Arf 1:30:04

Thank you very much Bassina, both for the introduction at the beginning – the kind of setting the scene for us – and also for moderating this Q&A session. Thank you so much Shiella, Kıvanç, Edwin, Vivienne and Philipp for your valuable contributions and most importantly for the very important work you are doing. As the introduction by Bassina and the panel discussion have shown, systemic wage theft remains a pervasive feature of the global workforce and it disproportionately impacts migrant workers. Our panelists' work and experience also demonstrates the importance of trade unions in saying 'no' to this abuse and exploitation. I think we have heard many inspiring and encouraging comments and experiences throughout this panel.

To conclude I want to say what we always say: a worker is a worker regardless of their origin or their migration status. When migrant workers are exploited, denied their rights or mistreated, this has an impact on all workers. Wage theft and other rights violations faced by migrants at work depresses wages and working conditions for everyone and has consequences for national workers and the broader labour market. Organising migrant workers, as has been mentioned by all of you, and including them in our unions makes our unions a better representation of the societies we live in as well. It makes our movement stronger. Only united can we seek a new social contract that ensures decent work and labour rights for us all.

Thank you again, thank you all for being with us to our audience as well. Thank you for your questions. I will close the webinar now and you can access the recording that will be made available. Thank you all.