

Wage Theft of Nepali Migrant workers in Destination Countries: Grave Violation of Migrants' Right

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Abstract

Wage theft is the grave violation of human rights and labour law of migrant workers which varies with background characteristics of migrants. Despite the international and national legal and policy provisions, the issue of wage theft has been increasing over time which compounds with the humanitarian crisis. The main objective of this article is to examine the drivers of wage theft of Nepali migrant workers at destination countries. Cross sectional design was used in this study in which 241 Nepali migrants were interviewed who were returned from Gulf Cooperation Council (GCC) countries, Malaysia and other countries. Of the total respondents majority were from age group 25-29 (26.14%), from Janajati caste (38.17%), married (78.42%) and from Koshi Province (33.20%). The duration of stay, documentation status, status and places of case filing of Nepali migrant workers has the strongest effect on implementation of salary agreement [24 months and above (OR=20.397, CI: 4.345-95.739), undocumented status is significantly lower i.e. (OR=0.278, CI: 0.147-0.526), and the absence of case file (OR=7.362, CI: 3.437-15.768)]. Similarly, the unpaid status of Nepali migrant workers is also significantly associated with duration of stay and caste/ethnicity [6-12 months (OR=16.6333, CI: 2.548-108.589) and Dalit (OR=0.763, CI: 0.202-2.885),]. The level of education and knowledge on minimum salary is also significantly associated with coercive working situations [lower secondary (OR=0.047, CI: 0.012-0.178) and having no knowledge (OR=0.993, CI: 0.509-1.938)]. The study reveal the fact that the prevalence of wage theft among Nepali migrant workers is high among migrant living in longer period of time, migrants with knowledge on minimum salary, illiterate migrants, undocumented, migrants without agreement paper, and low paid migrants. For improving both working situation and full with timely payment, the migrant sending and receiving countries need to adopt proper legal and policy provisions with their effective execution.

Keywords: Wage theft, Nepali migrant, rights, complaints, violations

Introduction

Wage theft is the grave violation of human rights and labour law that perpetuates exploitative working conditions leading to economic inequality and economic hardship to migrant workers and their left behind family members (MFA, 2021). The wage theft of migrant workers refers to the unlawful and unethical practices of employers/companies withholding or underpaying wages

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owed to migrant workers. The major forms of wage theft include the failing to pay the agreed salary, denying overtime pay, withholding tips or bonuses, making illegal deductions from wages or engaging in other fraudulent practices to avoid paying fair compensation and denial of legally mandated benefits like sick leave or vacation (ILO, 2023). The wage theft not only undermines the economic well-being of migrant workers and their left behind families but also perpetuates a cycle of exploitation and reinforces socio-economic inequalities (NNSM, 2021).

The incidence of wage theft is not new phenomena in the labour migration landscape especially in the country of destination. Systematic wage theft has long been a part of the foreign labour migration sector in the globe (Farbenblum & Berg, n.d.). The victims of wage theft are subjected to exploitative working conditions as long working hours, dangerous working environment, not proper living condition and under or inadequate or no payment of their effort (ILO, 2022). Migrant workers who often do not have proper knowledge of language, labour rights and who depend on their employers for work visas or permits are more vulnerable to wage theft. So, migrant having specific skills with proper language and labour right is less likely to becoming the victims of wage theft (IOM, 2021).

The leading causes of wage theft are exploitative employment practices, lack of legal protections, language and cultural barriers, migrant status as documented or undocumented, fear of reprisals and retaliation, ineffective enforcement of labour laws and lack of collective bargaining (ILO, 2022a). For most of Nepali migrants, the biggest difficulty in terms of proper payment was a language barrier (58.4%), dispute with employer and dispute with co-worker (Blitz, 2022). The difference in job as stated in the contract paper varies with gender. About 22 percent male and 6 percent female did not get the job as cited on their contract whereas about 30 percent female and 8 percent male did not receive the contract at the destination countries that lead to severe incidence of wage theft. Similarly about 27 percent Nepali migrant did not receive salary as per contract (Ibid.).

During the period of COVID-19 pandemic, the issues of wage theft had been compounded when the normalcy of the world has been destroyed largely. Almost all sectors have been adversely affected and human mobility or international migration has strikingly hit by COVID-19 (NNSM, 2021). The pandemic had severely impacted millions of migrant workers in destination countries, many of whom have experienced job loss or non-payment of wages, been forced by employers to take unpaid leaves and confined to poor living conditions (MFA, 2021). The majority of victims of wage theft were female migrant workers who were involved at domestic work (GAATW, 2022). The issue of wage theft is serious and it is grave violation of migrants' rights. The issues related to wage theft, fair and ethical recruitment, migrants in irregular situations and forced labour need to manage and rights of migrant workers need to promote (MoLESS, 2022).

Due to multiple factors, Nepali migrants who are victimized often do not report grievances related with wage theft propel them to remain in piteous status (NNSM, 2021; MoLESS, 2022). The cases of wage theft also compounded during the period of humanitarian crisis. The condition of Nepali migrant

workers was pathetic during the period of COVID-19 that they had faced various human and labour rights violations in the countries of destinations (Thapa, Baniya, Bhattarai & Pradhan, 2020). Most of the Nepali migrant workers experienced non-payment/delayed payment of salary/wages, sharp reduction in salary as well as lay-offs, and also experienced the abusive response including discrimination (IOM and NIDS, 2020). The report of MFA (2021) indicates that different countries of destination have already initiated the effort for addressing the wage theft and labour complaints. Countries like Saudi Arabia, Qatar, Kuwait, Thailand, Singapore and Australia have taken various degrees of actions, from setting up a multi-ministry task force and relevant laws, to courts ordering unpaid wages to be compensated to victim of wage theft (MFA, 2021).

Wage theft is particularly egregious in that it disproportionately affects workers in low-wage jobs who may already be struggling with poverty. Wage theft caused a significant loss in income, since 60 per cent of the workers in this group were underpaid by more than \$1 an hour. Based on their findings, assuming a full-time, full-year work schedule, low-wage workers lose an average of \$2,634 annually due to workplace violations, out of total earnings of \$17,616. Because of the countless lay-offs due to the COVID-19 pandemic, many migrant workers are returning home empty-handed, with unpaid dues and unable to address the unbalanced power their employers hold (MFA, 2020).

During the period of COVID-19, 29.3 percent male and 22 percent female migrant workers were undocumented who faced severe wage theft. The cases of wage theft were highest among undocumented migrants. Among female migrant workers the proportions of domestic women migrant worker experienced the wage theft (MFA, 2021). About 14 percent Nepali migrant workers did not get any pay, 13 percent get partial payment in which 75 percent Nepali migrants from UAE did not get any payment (CESLAM and PNCC, 2022). According to the study of MFA (2021), the average wages lost per workers of Nepali migrants was 1,446 USD whereas the wage lost of Bangladeshi and Philippines migrant workers accounted for 1,775 USD and 4,242 USD respectively (Ibid). The main causes of non-conformances includes many aspects includes blatant non-compliance with the law to save money, lack of technical knowledge on some aspects of wages payment, poor record keeping and organization, issues with company's cash flow or poor communication on wage payment including hard-to-understand payslip (ILO, 2019).

A study jointly conducted by PNCC and Equidem Nepal revealed the fact that most of the Nepali migrant workers experienced the problem of change in promised work as agreed in the agreement paper before leaving for destination countries. The legal provision of destination countries ban such types of practices however exasperate almost all destination countries due to multiple factors. The problem of under payment or low payment is also associated with one-way breach of contract by employer (PNCC and Equidem, 2023). The inequality in wage can result from a

mixture of changes in working time, changes in the earnings from time worked and changes affecting specific regions of the wage distribution. However, the complex structure of changes in inequality is a prerequisite for designing policies to reduce such inequality (ILO, 2022).

A study conducted in 2009 shows that due to violation of employment and labour laws regularly and systematically, a significant part of the low-wage labour force are affected badly. About 26 percent of workers were less paid than the legally required minimum wage, about 76 percent were not paid the legally required overtime, 70 percent did not receive any pay at all for the work they performed outside of their regular shift whereas 30 percent did not receive the tips (Bernhardt, A. & et.al., 2009).

As a labour exporting country, Nepal is a signatory to several migrations related treaties and agreements that regulates the foreign labour migration (IOM, 2019). Nepal is a signatory state to various bilateral and multilateral agreements including Abu Dhabi Dialogue, the Colombo Process, the SAARC Plan of Action on labour migration, the Global Forum on Migration and Development, the Global Compact for Migration, and labour agreements with different labour receiving countries (Ibid.) In Nepal, different organizations are effectively engaged with global, regional, national and local level policy dialogues on safe labour migration and decent work and advocated for the ratification and transposition in national laws of relevant international instruments, such as the ILO Convention no. 189 ((MoLESS, 2021)). Despite having the provisions of different bilateral and multilateral agreements as well as memorandum of understanding, the issues of wage theft of Nepali migrants has not reduced as an expected level. The study of wage theft at the destination countries are found with diverse aspect whereas there is lack of fact based study in the arena of wage theft of returnee migrants at origin. So, this study tries to reveal the facts of wage theft of returnee Nepali migrant workers at origin place.

Objectives

The main objective of this paper is to examine the situation of wage theft. The specific objective is to examine the drivers of wage theft Nepali migrant workers at destination countries.

Methodology

Data source

This study uses the secondary data previously collected by National Network for Safe Migration (NNSM) for their study purposes. This data set is the most recent one and first cross-sectional studies in the field of wage theft of Nepali migrant workers. This data was collected during the period of 1st March, 2021 to 30 April 2021. This study primarily used the quantitative approach for generating the data. The respondents of the study were Nepali returnee migrants returned from GCC countries and Malaysia, the most popular destination countries for majority of Nepali migrant workers, due to COVID-19. The total sample size of the study was 241 in which both male and female representing all seven provinces were included in the study. The two stage

sampling procedure was applied for this study. The four member organizations of NNSM viz. POURAKHI Nepal, AMKAS Nepal, PNCC and People Forum were selected purposively in the first stage whereas in the second stage targeted 241 respondents, from the list of returnees were selected and interviewed.

Study variables

Dependent variables

The total or partial non-payment of worker's remuneration, payment of salaries below the minimum wage, non-payment of overtime, non-payment of contractually owed service benefits, reduction of salaries and forceful working situation without payment of salary are the main criteria for assessing the wage theft. So, based on these criteria, four major variables viz. whether the work is as per initial agreement or not, paid or unpaid status of salary, less payment of salary as agreed and working situation is forceful or voluntary as per contract are taken as the dependent variables for this study. The dependent variables for this study are binary responses (1=implementation status of salary agreement or 0=violation of salary agreement, 1=payment of salary or 0=non-payment of salary, 1=conducive working situation or 0=coercive working situation).

Independent variables

The main independent variables used in this paper are the documentation status, duration of stay at destination country, implementation status of agreement paper, knowledge on minimum salary, status of overtime, status of case file and place of case file are regarded as the independent variables. The documentation status is categorized as documented and undocumented status whereas the duration of stay is grouped into 1-6 months, 6-12 months, 12-18 months, 18-24 months and >24 months. Similarly, implementation status of agreement paper is categorized as implemented and not implemented status. Whereas the knowledge on minimum salary, status of overtime and status of case file are categorized as 'yes' and 'no' and place of case file is grouped as file nowhere, file at country of destination, Nepal and both countries. Similarly, the background variables of respondents are also included as independent variables. The respondents' age, caste/ethnicity, gender, residential province, marital status and country of destination are the background independent variables.

Method of analysis

Primarily, univariate, bivariate and multivariate analyses were used to analyze the data. Basically, univariate and bivariate analysis were employed to describe the socio-demographic and economic characteristics of respondents whereas the multivariate analysis was used in the form of binary

logistic regression for analyzing the causes and leading factors of wage theft in the destination countries of Nepali returnee migrants. Four binary logistic regression models were used to examine the causes of wage theft of Nepali migrants. Before logistic regression is performed, multicollinearity was assessed for examining the net effect of independent variables on dependent.

Result and Discussion

Background characteristics of study population

Table 1 reveals the background characteristics of respondents where majority of respondents were from age group 25-29 (26.14%) followed by age group 30-34 (25.31%) whereas least is observed in age group >45 years (2.07%). The highest proportion of respondents was from Janajati (38.17%) which is followed by Brahmin/Chhetri (36.10%) and least is observed in Tharu caste i.e. 0.83 percent only. About one third respondents were female whereas highest proportion of respondents was from Koshi province (33.20%).

Similarly, majority of respondents were married (78.42%) while only 0.83 percent were divorced. The proportion of respondents having secondary level of education is observed highest i.e. 29.46 percent followed by lower secondary education (19.92%) whereas only 1.24 percent respondent had bachelor level of education. About half of the respondents stayed for more than 24 months whereas only 6.22 percent stayed for less than six months at the destination country. About one fifth respondents did not have valid document who remained as undocumented status whereas more than one third respondents were come back from UAE.

Table 1: Background characteristics of returnee migrants who are the victim of wage theft

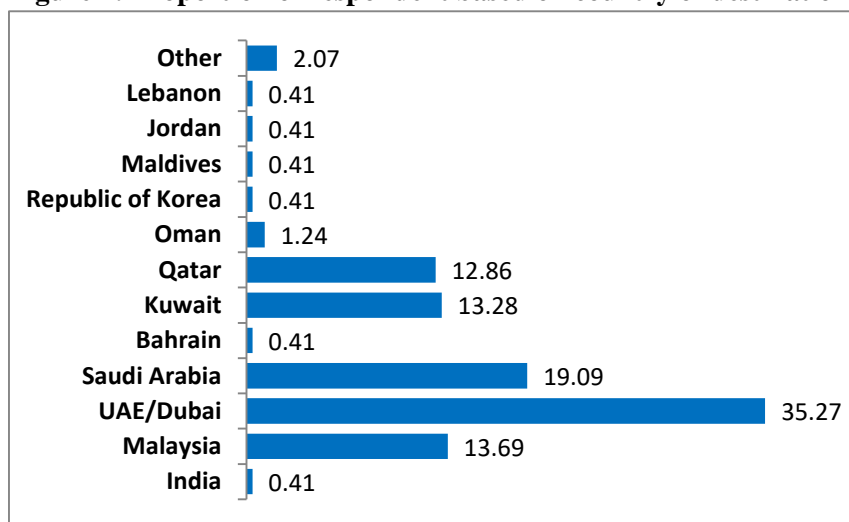
Characteristics	Percent	Total Number
Age Group		
20-24	14.94	36
25-29	26.14	63
30-34	25.31	61
35-39	19.50	47
40-44	12.03	29
45 and above	2.07	5
Caste/Ethnicity		
Brahmin/Chhetri	36.10	87
Janajati	38.17	92
Madhesi/Muslim	10.79	26

Dalit	8.30	20
Tharu	0.83	2
Other	5.81	14
Gender		
Male	69.29	167
Female	30.71	74
Province		
Koshi	33.20	80
Madhesh Pradesh	9.96	24
Bagmati	30.71	74
Gandaki	8.71	21
Lumbini	12.45	30
Karnali	2.49	6
Sudurpaschim	2.49	6
Marital status		
Married	78.42	189
Unmarried	19.50	47
Divorced	0.83	2
Separated	1.24	3
Literacy status		
Illiterate	8.71	21
Lower than primary	17.01	41
Primary	7.47	18
Lower secondary	19.92	48
Secondary	29.46	71
Intermediate/10+2	16.18	39
Bachelor	1.24	3
Duration of stay		
1-6 months	6.22	15
6-12 months	9.96	24

12-18 months	17.01	41
18-24 months	17.01	41
24 months and above	49.79	120
Documentation status		
Documented	78.42	189
Undocumented	21.58	52
Country of destination		
Malaysia	13.69	33
UAE/Dubai	35.27	85
Saudi Arabia	19.09	46
Kuwait	13.28	32
Qatar	12.86	31
Oman	5.81	14
Total	100.00	241

Figure 1 demonstrates the proportion of respondent from different countries. The significant proportion of respondent is observed in UAE i.e.35.27 percent followed by Saudi Arabia (19.09%) and Malaysia (13.69%). Whereas small proportion of respondents were from Lebanon, Jordan, Maldives, Republic of Korea, Bahrain and India i.e. 0.41 percent for each country.

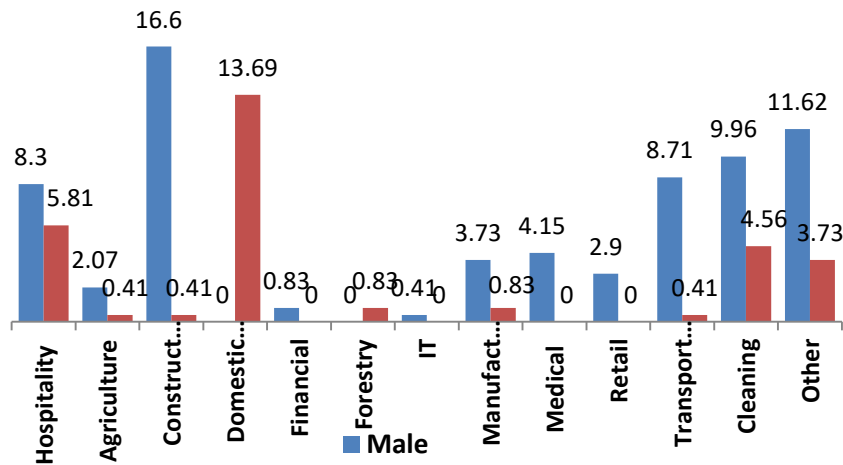
Figure 1: Proportion of respondent based on country of destination



Similarly, the significant proportion of male migrant is found involved in construction sector (16.6%) followed by cleaning (9.96%), transportation (8.71%) and hospitality (8.3%) whereas the

significant proportion of female migrants were involved in domestic work (13.69%) followed by hospitality (5.81%) and cleaning (4.56%) (Figure 2). The majority of victims of wage theft were from domestic work than other types of job (MFA, 2021) illustrates the fact that majority of women involved in domestic work were victims of wage theft.

Figure 2: Proportion of respondent by types of occupation



Of the total respondents one third responded that they received less than agreed whereas about three percent received more than agreed however only about two third received the salary as agreed in contract paper (Figure 3).

Figure 3: Proportion of respondents by paid salary as stated in contract paper

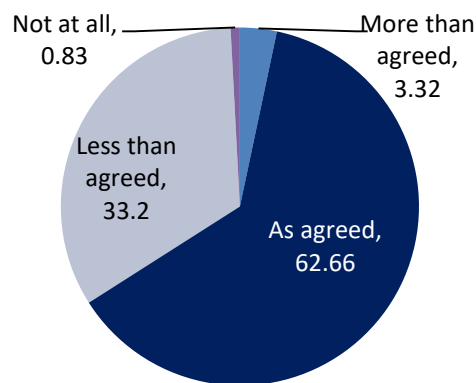
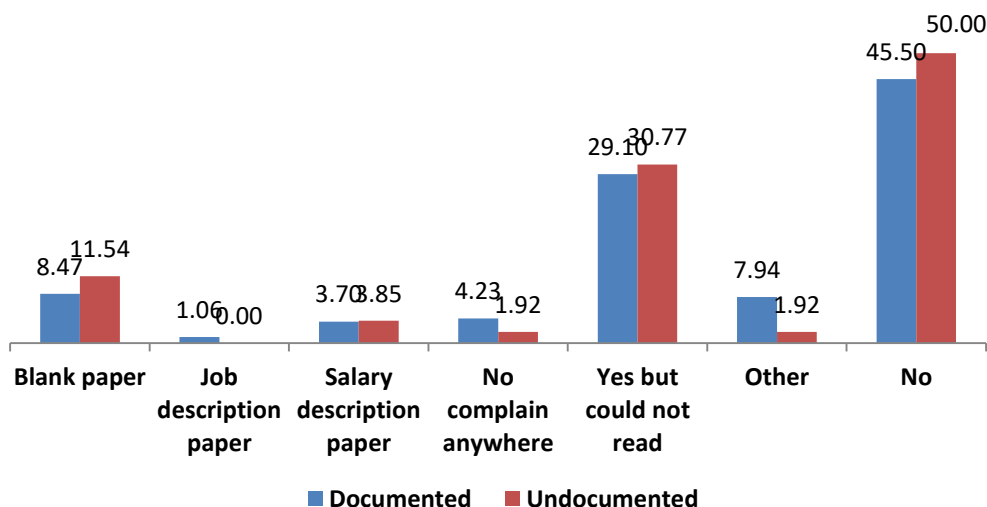


Figure 4 reveals the fact that the significant proportion of respondent did not signed in the paper

i.e. 50 percent undocumented and 45.50 percent documented did not sign in contract paper whereas 30.77 percent undocumented and 29.10 percent documented signed but could not read. About one tenth both status of migrant i.e. documented and undocumented signed in blank paper.

Figure 4: Status of signature in by respondent’s legality status



Leading causes of wage theft of Nepali migrant workers

The Table 2 reveals the fact that the likelihood of wage theft of Nepali migrant workers is increasing as the increment in the duration of stay at the destination country. It reflects that the likelihood of wage theft of Nepali migrant workers having longer duration of working experience have a significantly higher likelihood of incidences of wage theft viz. 6-12 months (OR=3.9, CI: 0.711-21.406), 12-18 months (OR=14.00, CI: 2.750-71.279), 18-24 months (OR=15.708, CI: 3.067-80.467), and 24 months and above (OR=20.397, CI: 4.345-95.739) than equally migrants having working experience of 1-6 months (reference group, OR=1).

Similarly, the likelihood of wage theft with undocumented status is significantly lower i.e. (OR=0.278, CI: 0.147-0.526) than equally migrants having documented status (reference group, OR=1). The absence status of case file has increase likelihood of wage theft. It indicates that the absence of case file is associated with higher odds of wage theft compared to reference group (OR=7.362, CI: 3.437-15.768). And there is decreased likelihood of wage theft of Nepali migrant workers if the case has filed in destination and both countries (i.e. both Nepal and destination country) (Table 2).

Table 2: Odds Ratio (OR) and 95% Confidence Interval (CI) for impact of duration of stay, documentation status, case file and place of case file on implementation of Salary Agreement

Characteristics	Odds Ratio (95% level of Significance)	P-Value	Confidence Interval	
			Upper	Lower
Duration of stay at destination countries				
1-6 months	1.00			
6-12 months	3.900	0.017	0.711	21.406
12-18 months	14.000**	0.001	2.750	71.279
18-24 months	15.708**	0.001	3.067	80.467
24 months and above	20.397***	0.000	4.345	95.739
Documentation Status				
Documented	1.00			
Undocumented	0.278***	0.000	0.147	0.526
Status of case file				
Yes	1.00			
No	7.362***	0.000	3.437	15.768
Places of case file				
File nowhere	1.00			
Country of destination	0.128***	0.000	0.044	0.372
Nepal	0.149**	0.001	0.050	0.444
Both countries	0.119	0.068	0.012	1.173

According to Table 3, it is observed that there is decreasing likelihood of wage theft from shorter duration of working experience to longer duration of working experience at country of destination. The result reveals the fact that migrants' working duration has significant impact on wage theft i.e. 6-12 months (OR=16.6333, CI: 2.548-108.589), 12-18 months (OR=9.040, CI: 1.636-49.960), 18-24 months (OR=5.774, CI: 1.110-30.039) and more than 24 months

(OR=6.254, CI:1.336-29.272) with 1-6 months working duration (reference group, OR=1). Similarly, the likelihood of wage theft is significantly associated with caste/ethnicity indicating that the likelihood of wage theft is observed decreasing with Janajati, Madhesi and other caste i.e. janajati (OR=0.415, CI: 0.175-0.983), madhesi/muslim (OR=0.245, CI: 0.059-1.022) and other caste (OR=0.201, CI: 0.043-0.936)

Table 3: Odds Ratio (OR) and 95% Confidence Interval (CI) for impact of duration of stay, documentation status, and caste/ethnicity on unpaid status of salary of migrant workers

Characteristics	Odds Ratio (95% level of Significance)	P-Value	Confidence Interval	
			Upper	Lower
Duration of stay at destination country				
1-6 months	1.00			
6-12 months	16.633*	0.003	2.548	108.589
12-18 months	9.040**	0.012	1.636	49.960
18-24 months	5.774*	0.037	1.110	30.039
24 months and above	6.254*	0.020	1.336	29.272
Documentation Status				
Documented	1.00			
Undocumented	0.196***	0.000	0.078	0.487
Caste/Ethnicity				
Brahmin/Chhetri	1.00			
Janajati	0.415*	0.046	0.175	0.983
Madhesi/Muslim	0.245*	0.054	0.059	1.022
Dalit	0.763	0.690	0.202	2.885
Other	0.201*	0.041	0.043	0.936

Table 4 reflects that there is significant association between wage theft of migrant and residential province, knowledge on minimum salary, overtime status and status of case file. It is observed that there is lower likelihood of wage theft in Madesh Province (OR=0.063, CI: 0.007-0.598) and Gandaki Province (OR=0.076, CI: 0.007-0.773) than reference group (OR=1). Likewise, the

likelihood of wage theft is found lower with migrant who did not have knowledge on minimum salary (OR=0.330, CI: 0.119-0.917). The likelihood of wage theft is observed decreased with migrant who did not have overtime facilities (OR=0.088, CI: -4.080-0.000) and the likelihood of wage theft increases with the not filing case (OR=5.333, CI: 1.917-14.839).

Table 4: Odds Ratio (OR) and 95% Confidence Interval (CI) for impact of residential province, knowledge on minimum salary, status of overtime and status of case file on under payment of salary of migrant workers

Characteristics	Odds Ratio (95% level of Significance)	P-Value	Confidence Interval	
			Upper	Lower
Residential province of Nepali migrants				
Koshi	1.00			
Madhesh Pradesh	0.063*	0.016	0.007	0.598
Bagmati	0.143	0.076	0.017	1.221
Gandaki	0.076*	0.029	0.007	0.773
Lumbini	0.177	0.164	0.015	2.031
Karnali	0.063	0.064	0.003	1.168
Knowledge on minimum salary				
Yes	1.00			
No	0.330*	0.033	0.119	0.917
Status of overtime				
Yes	1.00			
No	0.088*	0.053	-4.080	0.000
Status of case file				
Yes	1.00			
No	5.333**	0.001	1.917	14.839

Similarly, Table 5 reveals that there is decreasing the likelihood status of coercive or forceful working situation Nepali migrant workers from no education to higher education. The result

demonstrates that migrants having higher education have significantly lower likelihood of experiencing the forced working condition i.e. lower than primary (OR=0.184, CI: 0.053-0.644), primary (OR=0.118, CI: 0.027-0.509) and intermediate and above (OR=0.081, CI: 0.022-0.299). The likelihood of increasing coercive working situation higher among undocumented migrants compared to document (OR=4.834, CI: 2.527-9.248).

Table 5: Odds Ratio (OR) and 95% Confidence Interval (CI) for impact of level of education, documentation status, knowledge on minimum salary, status of underpayment on coercive working situation of Nepali migrants

Characteristics	Odds Ratio (95% level of Significance)	P-Value	Confidence Interval	
			Upper	Lower
Level of education				
No education	1.00			
Lower than primary	0.184**	0.008	0.053	0.644
Primary	0.118**	0.004	0.027	0.509
Lower secondary	0.047***	0.000	0.012	0.178
Secondary	0.092***	0.000	0.028	0.308
Intermediate/10+2 and above	0.081***	0.000	0.022	0.299
Documentation status				
Documented	1.00			
Undocumented	4.834***	0.000	2.527	9.248
Status of salary agreement				
No	1.00			
Yes	0.289****	0.000	0.164	0.510
Knowledge on minimum salary				
Yes	1.00			
No	0.993	0.003	0.509	1.938
Status of low salary				
>50%	1.00			
<50%	0.312*	0.023	0.114	0.853

Conclusion

Wage theft is the heinous violations of human and labour rights of migrant workers. The major destination countries of significant Nepali migrants are Gulf countries and Malaysia where the payment is low and most of them involve in labour demanding sector. The study revealed the fact that the prevalence of wage theft among Nepali migrant workers in different destination countries is high among migrant living in longer period of time, among Brahmin/Chhetri, migrants from Koshi Province, migrants with knowledge on minimum salary, illiterate migrants, undocumented, migrants without agreement paper, and low paid migrants. For improving both working situation and full with timely payment, the labour sending and receiving countries need to promulgate new legal and policy provisions including necessary amendment in the exiting provisions with proper enactment. The provisions of bilateral as well as multilateral agreements need to implement strictly by both labour sending and receiving countries which to some extent contribute for reducing the issues of wage theft. The government of Nepal needs to provide the appropriate skills and trainings demanded by countries of destinations to aspirant Nepali migrants including the knowledge of language of destination country. Besides these efforts, government of Nepal needs to explore the lucrative destination countries for aspirant migrant for safe, orderly and regular migration which benefits more to migrants ,their families and to the migrant sending countries.

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