

Economic Marginalization and Human Rights Dilemmas: Migrant Workers in Malaysia Under the Foreign Labor Recruitment Ban Policy

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ABSTRACT (10 PT)

This study explores the socio-economic and human rights impacts of Malaysia's recent foreign labor recruitment freeze, focusing on migrant workers. Using a qualitative approach, it draws on government reports, NGO analyses, international agency publications, and case studies to examine policy effects. Findings show that the freeze has deepened economic marginalization among migrants many burdened by recruitment debt while key sectors face labor shortages, threatening economic recovery. The study highlights policy gaps between labor governance and human rights protection and calls for reforms centered on worker rights, transparency, and ethical recruitment. It contributes to wider debates on migration governance and labor politics in Southeast Asia.

Keywords: *Foreign Policy, Migrant Workers, Labor Market, Human Rights, Economic Marginalization*



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INTRODUCTION

Malaysia's complex approach to migration governance has long been characterized by a selective and utilitarian treatment of foreign labor, while systematically excluding refugees from legal recognition and socio-economic inclusion. Malaysia has emerged as one of Southeast Asia's primary destinations for migrant labor, particularly in sectors such as construction, agriculture, manufacturing, and domestic work. These industries are heavily reliant on low-skilled foreign workers from countries such as Indonesia, Bangladesh, and Nepal, whose labor underpins much of the nation's economic output. However, the Malaysian government's decision to temporarily freeze all new recruitment of foreign labor, initiated in March 2023 and extended into 2025, has introduced significant challenges not only for the country's labor market but also for the human rights landscape concerning migrant workers (Khanif & Hooi, 2022). The freeze on foreign labor recruitment has sparked a dynamic scholarly debate among migration researchers in Malaysia. On the other hand, critics argue that the ban represents a form of structural discrimination, disproportionately harming migrant workers through economic marginalization, legal exclusion, and widespread rights violations (Foley, 2023). Some academic think that the ban migration in Malaysia is a necessary corrective measure to fix systemic flaws in the hiring process and rebalance the labor market. In the next article presented by (Al Masud et al., 2022), it is importance of reforming the recruitment system so that it does not only rely on the availability of cheap labor, but also pays attention to the education, skills, and readiness of migrants in a humane and professional manner.

This policy, while framed as an effort to reform recruitment systems and eliminate exploitative practices, has instead generated widespread disruptions. Thousands of migrant workers who had paid substantial recruitment fees have been left jobless upon arrival or stranded in their home countries. Meanwhile, employers face critical labor shortages, and reports of increased exploitation, irregular employment, and passport confiscation have raised serious concerns about governance and rights protections. The situation underscores the deep-seated structural vulnerabilities in Malaysia's labor migration framework, where policy shifts often disproportionately affect the most marginalized. While existing literature has addressed issues of labor migration and policy implementation in Malaysia, there remains a pressing need to examine how abrupt regulatory actions, such as this recruitment freeze, reverberate across both economic and human rights domains. Marginalization in Southeast Asia is frequently associated with legal, political, and economic impediments that inhibit individuals from

expressing their rights. The suspension of foreign labor recruiting in Malaysia appears to be a reaction to these obstacles, indicating a disregard for the rights of migrant workers and the necessity for more equal laws (Khanif & Hooi, 2022).

Malaysia's economy is heavily dependent on migrant labor, both documented and undocumented, which has increased the government's efforts to enforce strict migration controls. Despite efforts to regulate undocumented migrant workers, the country continues to host millions of migrants, reflecting the high demand for foreign labor. In addition, frequent migration policy changes between 2011 and 2019 created difficulties for migrant workers. These policy changes, which tend to be confusing and temporary, prevent migrants from obtaining stable employment and legal status, which ultimately negatively impacts their overall well-being (J. T. Anderson, 2020). Even though the Malaysian government has made reforms like zero-cost MOU and digitizing the recruitment process, these methods are still part of the shift from a national migration government to a growing global migration government, which hasn't fully prioritized protecting migrant workers (Low, 2025).

This study aims to answer the following research questions "the policy of temporarily suspending the recruitment of foreign workers in Malaysia affects the economic marginalization and protection of the human rights of migrant workers". This study seeks to fill that gap by analyzing the socio-economic consequences and human rights dilemmas emerging from Malaysia's foreign labor freeze. Using qualitative case study methods and policy analysis, the paper explores the lived experiences of affected migrants and the systemic shortcomings that have amplified their vulnerability. Ultimately, this research contributes to broader debates on ethical labor governance, state accountability, and the future of migrant labor in the region. The introduction of a nationwide moratorium on foreign labor recruitment in March 2023, aimed at limiting foreign workers to 15% of the national workforce, has further deepened the marginalization of refugees. Although not explicitly targeted by the policy, refugees already excluded from formal labor protections have been disproportionately impacted. The freeze has reduced employment opportunities across informal sectors, intensified competition for low-wage jobs, and exacerbated the risk of labor abuses and socio-economic insecurity for displaced populations. This paper interrogates the human rights dilemmas arising from such restrictive labor policies, particularly their unintended consequences on marginalized and undocumented communities.

THEORETICAL FRAMEWORK

Economic marginalization

The concept of economic marginalization refers to the process by which certain individuals or groups are excluded or excluded from full participation in the formal economic system, either through direct exclusion from the labor market or through limited access to social protection, public services, and basic economic rights. Economic marginalization often occurs as a result of a combination of social structures, state policies, discrimination, and non-inclusive labor market mechanisms (B. Anderson, 2010). In the context of migration, economic marginalization is experienced by migrant workers working in informal and low-wage sectors, where uncertain legal status, limited access to legal representation and lack of social protection reinforce their position as a vulnerable group in the receiving society (Kabeer, 2011). Additionally, uncertainty frequently affects migratory workers. When their jobs are unstable, they are more susceptible to debt, mental fatigue, a lack of social support, and even deviant behaviour. Because they may lose benefits and find it difficult to get help if their current position terminates, they are frequently hesitant to accept new employment offers. In these situations, a flexible labor market actually makes the most vulnerable people's economic and social insecurity worse (Standing, 2016).

This theory is supported by the trend shown in the instance of Malaysia. According to Migration Works in Malaysia have inadequate working conditions, delayed wages, and restricted access to legal remedies. The implementation of a moratorium on hiring foreign workers exacerbated these circumstances, resulting in a rise in unemployment, arbitrary dismissals, and the forced migration of migrants into the unregulated informal economy. Due to the fact that migrant workers in Malaysia experience exploitation, discrimination in the workplace, and no protection for their human rights, modern economic marginalization theory places a strong emphasis on a multifaceted approach that takes into account structural, psychological, and economic factors (Foley, 2023).

According to the data, 96% of migrant workers who leave for Malaysia have debts related to the recruitment process. They generally have to take out at least one loan to cover costs such as travel, medical check-ups, and paperwork. Around 73% of them spend 50% to their entire monthly salary to pay off the debt, and 82% have two or more loans (Saddam Hossain, 2024). From the data, there are concerns about recruitment debt, while 43% experience wage fraud, which is receiving a lower salary than promised. The lack of supervision of the recruitment industry and the non-implementation of the "employer pays" principle leaves migrant workers in debt and forced to remain in Malaysia, even if their status becomes undocumented.

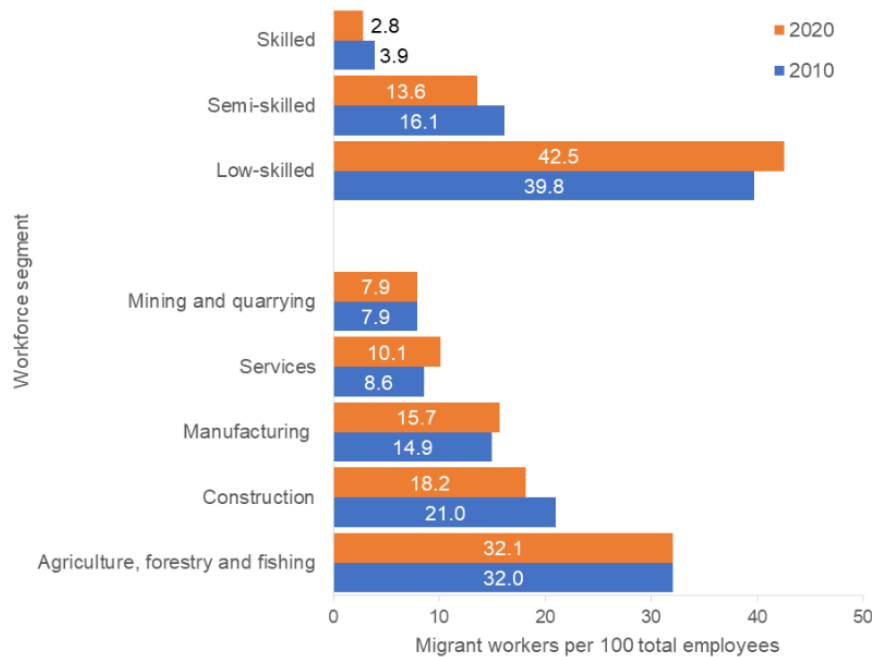


Figure 1. Malaysia's Economy depends on Migrant Labor

This study examines the changes in the distribution of migrant workers in Malaysia by skill level and economic sector during the period 2010 to 2020. Data shows that the majority of migrant workers are in the low-skilled labor segment, with the proportion increasing from 39.8 migrant workers per 100 total workers in 2010 to 42.5 in 2020. In contrast, high-skilled migrant workers showed a decrease in the proportion from 3.9 in 2010 to 2.8 in 2020, indicating limited vertical mobility in the migrant labor market. The agriculture, forestry, and fisheries sector consistently absorbs the largest number of migrant workers, with a relatively stable figure of around 32 migrant workers per 100 total workers in both years. Conversely, the construction sector experienced a significant decline in the proportion of migrant workers, from 21.0 in 2010 to 18.2 in 2020. The manufacturing and services sectors showed moderate increases, from 14.9 to 15.7 and from 8.6 to 10.1 migrant workers per 100 total workers, respectively. The mining and quarrying sector maintained a constant figure of 7.9 over the same period (MOHR, 2019).

Migrant workers in Malaysia face systemic economic marginalization due to structural labor arrangements that detach them from direct employment relationships. The widespread outsourcing model places them under the control of recruitment agencies that often impose excessive fees while providing minimal protections, thereby trapping workers in cycles of debt and dependency. This structural vulnerability is compounded by their limited access to labor unions and legal remedies, which inhibits their ability to challenge wage theft or workplace abuse. Moreover, undocumented migrants live under constant fear of arrest or deportation, reinforcing their social isolation and economic uncertainty. These conditions reflect how economic marginalization is perpetuated not only through low wages and weak legal safeguards but also through institutional mechanisms that maintain the subordination of migrant labor (Devadason & Meng, 2014).

Comparatively countries with Qatar, Singapore and Australia offer instructive models for reducing economic marginalization. Qatar has stopped a labor sponsorship system that allowed foreign workers to move or leave the country without their employer's permission. The system, called "KAFALA" shows how labor law reorganization can eliminate exploitative dependency (Sari et al., 2021). Singapore's Fair Consideration Framework and Dependency Ratio Ceiling encourage equitable treatment of international workers while protecting local employment interests by enforcing stringent recruitment laws and transparent hiring practices (Spire Healthcare, 2012). In contrast, Australia's "workplace justice visa," which is a progressive form of legal empowerment, permits migrant workers to stay temporarily after their contracts expire in order to prosecute labor disputes (Australian Department of Home Affairs, 2023).

The fact that these global practices address both economic exclusion and the psychological and structural factors that perpetuate precariousness makes them consistent with the notion of economic marginalization. The paradigm of economic marginalization stems from the monetary dependence of migrants who are trapped in structural debt, exploitation by agents and employers, and the unprotected nature of informal work. Although intended to protect local workers, the policy of freezing workers actually causes migrant workers to enter through informal channels, lose legal protection, and integrate into the shadow economy. This condition creates a human rights dilemma between protecting the economic rights of migrants and providing space to work.

RESEARCH METHODS

This study uses a qualitative-descriptive approach that focuses on an in-depth understanding of the experiences of migrant workers in Malaysia during the recruitment freeze. This approach was chosen to explore the subjective meanings of economic marginalization and human rights dilemmas experienced by migrants, in line with the interpretive paradigm in migration and social justice studies (Adolph, 2016). The main focus is on highlighting how state policies can create, reinforce or maintain forms of economic exclusion against migrant groups. The data used in this study came from a literature review that included the most recent scientific journals that address the marginalization of migrants and labor laws in Southeast Asia, as well as policy documents from the Malaysian government and reports from international organizations like the ILO, Human Rights Watch, and UNHCR. Furthermore, the researcher examined the AICHR (2022) theme report, which particularly addressed the ASEAN context's human rights and migration management issues. A comprehensive grasp of the ways in which administrative procedures and the legal system affect migrant workers' social and economic situation is offered by this method. The study uses thematic analysis to find narrative patterns in publications and other document sources. Using this method, researchers can investigate themes that are prevalent in the lives of migrant workers, such as "labor exploitation," "legal uncertainty," and "access to justice." Using data familiarization, preliminary coding, topic search, theme review, and theme definition, the analysis was carried out (Akramul Kabir, 2024). Due to the sensitivity of the topic and the difficulty of accessing undocumented populations during the freeze period, the study did not include interviews or direct fieldwork. However, the rigorous cross-verification of public reports and academic findings provides a sound analytical basis.

RESULTS AND DISCUSSION

Malaysia's Migration Freeze: Policy Objectives and Impacts

Since early 2025, the Malaysian government has imposed a freeze on foreign labor recruitment in response to concerns about over-reliance on migrant workers, setting a maximum limit of 2.5 million people for five key sectors: construction, manufacturing, agriculture, plantations and services. The aim of the policy is to encourage companies to hire local workers and accelerate industrial automation. However, its implementation has had various economic and social impacts. Labor-intensive sectors such as manufacturing and agriculture have experienced significant labor shortages, disrupting supply chains and delaying projects worth millions of ringgit (Daniel Wong et al., 2025). The policy of banning the hiring of foreign workers has increased human rights abuses and furthered the economic marginalization of migrant workers in Malaysia. More than a million migrant workers are impacted by this regulation. These migrants formerly worked in industries including construction, manufacturing, and palm oil plantations, which local people typically avoid because they are heavy and high-risk (Theng & Romadan, 2020).

The policy of stopping foreign labor recruitment has resulted in many migrant workers who have arrived in Malaysia without the promised jobs. They are often trapped in huge debts due to high recruitment fees and non-transparent recruitment practices. Some workers even have to borrow money to pay recruitment fees that can reach up to 20,000 Malaysian ringgit (around 4,500 US dollars), but after arriving in Malaysia, they do not get the promised jobs and their passports are confiscated by recruitment agencies (Reuters, 2023). A report from CIDE International (2024) states that Malaysia has a shortage of at least 1.2 million active foreign workers, including 600,000 in the manufacturing sector and 550,000 in construction, due to a lack of interest among the local population in working in jobs classified as 3D (dirty, difficult, dangerous) (Nafhani Azli & Wong, 2025).

From an economic perspective, the marginalization of migrant workers also has a negative impact on Malaysia's productivity and competitiveness. This labor shortage forces companies to reject orders and lose significant revenue. For example, palm oil and manufacturing companies have had to reject orders due to labor shortages, which can hamper the country's economic recovery (Reuters, 2022). Foreign labor is crucial to Malaysia's economy, particularly in important industries like manufacturing, construction, and services. About 2.3 million foreign workers, or 14.6% of the country's workforce, will be employed in Malaysia by 2024. Although it is challenging to quantify their precise direct contribution to GDP, foreign workers play a crucial role in promoting economic growth, raising productivity, and hastening the creation of sector strategies. The presence of foreign workers continues to be essential to the continuity and stability of the Malaysian economy during the continuous industrialization process. The majority of them are employed in the manufacturing, construction, and service industries, which are the primary sources of the nation's need for foreign labor (Medina, 2025).

Table 1. Foreign workers in various sectors in Malaysia

Sector	Number of Foreign Workers
Manufacturing	730,999
Construction	646,508
Services	394,739
Plantation	263,151
Agriculture	171,103
Domestic Work	100,675
Mining and Quarrying	5,711

To address the growing dependency on foreign labor, the Malaysian government has implemented several strategic initiatives. These efforts include skill improvement local workers through training programs financed by the Human Resources Development Fund (HRDF), introducing a multi-tiered levy system to regulate foreign labor employment, and tailoring labor policies to meet sector specific demands. Additionally, the government has strengthened technical and vocational education and temporarily halted new foreign worker quota applications. These measures align with the goals outlined in the 12th Malaysia Plan, which aims to cap the proportion of foreign workers at 15% of the national workforce. Collectively, these policies reflect a deliberate strategy to balance the need for economic growth with the pursuit of a more sustainable and locally driven labor market (South Gate, 2024). Moreover, these labor-intensive sectors play a strategic role in the Malaysian economy. Manufacturing and plantations, for example, contribute significantly to the nation's Gross Domestic Product (GDP) and exports. When the influx of foreign workers is disrupted, such as during the COVID-19 pandemic, many companies report significant losses due to delayed construction projects, unharvested agricultural crops, and decreased industrial productivity (Nasrijal et al., 2025). Furthermore, Malaysia's labor regulatory system officially restricts the use of foreign workers to sectors experiencing domestic labor shortages, as outlined in the Ministry of Home Affairs policy (Medina, 2025). This dependence is also rooted in Malaysia's colonial history, where migrants, primarily from India, China, and Indonesia, have been part of the backbone of the economy since the 19th century.

Overall, migrant workers are not merely a fixture in Malaysia's labor ecosystem, but have become a key component in maintaining the stability and sustainability of the national economic sectors.

Based on the volume of migrant labor, its strategic economic value, and its sensitivity to labor shortages, the manufacturing sector has proven to be the most influential sector in the discourse on dependence on foreign workers in Malaysia. This dependence not only reflects the need for cheap labor but also demonstrates how migrant labor has become a crucial foundation for maintaining the competitiveness of the national industry in the global market. Furthermore, this sector also receives the highest quota allocation in the Malaysian government's foreign worker placement policy, at 40% of the total national quota, demonstrating official recognition of its high level of dependence (Meyer, 2013).

However, these structural reforms have not sufficiently addressed the human rights challenges faced by migrant workers. Despite regulatory frameworks in place, findings from qualitative research in Penang, Selangor, and Johor highlight significant gaps in labor protection and enforcement. Migrant workers frequently encounter exploitative working conditions, often exacerbated by vague legal provisions and over-reliance on employers for immigration documentation. The lived experiences of the workers reveal that their rights are precarious, with limited access to legal recourse or protection in cases of abuse or contract violations. Poor enforcement mechanisms and a lack of employer accountability further entrench these issues, creating an environment where labor rights violations persist with minimal consequences. Consequently, while economic and labor policies aim to manage foreign labor dependency, they must be complemented by robust human rights enforcement and inclusive legal protections to ensure migrant workers are not left vulnerable within the Malaysian labor market (Yotwilai, 2025).

While Malaysia has long been a major destination for migrant workers in Southeast Asia, the country's employment policies still face major challenges in balancing economic needs with human rights protections. Many migrant workers face poor working conditions, exploitation, and limited access to legal protection and effective complaint mechanisms (Shaari et al., 2024). The prevalence of exploitation, subpar working conditions, limited legal protection, and reliance on private recruiting, which raises the possibility of forced labor, are all clear indicators of this imbalance. To ensure that employment policies are in compliance with human rights norms, structural modifications are therefore required. Additionally, the migration process's opaqueness and dependence on private recruitment firms open the door for forced labor and human trafficking (Athukorala & Devadason, 2012). To close the gap between human rights norms and employment policy, extensive structural adjustments are required.

To bridge these gaps, it is crucial for the Malaysian government to implement comprehensive reforms that prioritize the human rights of migrant workers alongside economic considerations. This includes establishing independent oversight bodies to monitor labor practices, enhancing transparency in recruitment processes through government-to-government (G2G) agreements, and providing migrants with direct access to legal aid services. Furthermore, a better legal foundation for protecting workers' rights would be provided by ratifying and successfully implementing international labor treaties such as ILO Convention 189 on domestic workers and Convention 87 on freedom of association (Tan, 2025). Additionally, labor unions and civil society groups must be given the freedom to assist immigrant communities without worrying about retaliation. Malaysia's economic aspirations and its international obligations to fair labor standards will continue to be undermined by the persistent mismatch between labor policy and human rights in the absence of these structural improvements.

Human Rights Dilemmas in Migration Governance

Human rights dilemmas in the context of international migration are tensions between state's duty to defend the human rights of all people, including migration workers regardless of their legal status and its policy to regulate migration patterns. This dilemma often arise in migration governance systems, which are the ways in which states and non-state actors regulate migration through legal policies, administrative systems, and border controls (Sadiq & Tsourapas, 2021). The conflict between the protection of migrants rights and state sovereignty raises human rights and state sovereignty issues gives rise to human rights quandaries in migration governance. The presence of a large number of undocumented migrants due to the freeze poses security risks, including the spread of criminality and disease (Ajis et al., 2009). This situation calls for better internal enforcement and a shift towards more humane and effective migration control measures (Low, 2019).

This situation demands improved internal law enforcement and a shift towards more humane and effective migration control measures. The freeze or denial of legal status has increased the number of undocumented migrants, posing a serious security risk. Harsh border policies actually encourage migrants to use illegal routes through smugglers, increasing their safety risks and strengthening transnational criminal organizations (Aguilera, 2022). The conflict between protecting migrants' rights and state sovereignty raises human rights and state sovereignty issues, creating a human rights dilemma in migration governance. International human rights laws, which apply to everyone, including migrants, regardless of their legal status, must be upheld by governments even though they have the right to manage migration and control their borders. This leads to a complex web of issues, such as addressing prejudice and discrimination against migrants, balancing security concerns with the need for humane treatment, and ensuring equal access to protection and essential services for all migrants (OHCHR, 2024).

As a result, this complex web of issues gives rise to the side effects of migration policies and reflects the tension between fear of foreigners and the moral and legal obligation to treat them fairly. States may prioritize national security and immigration control over individual rights when implementing border control measures, which often lead to actions such as detention, deportation, and strict asylum procedures. This tension is particularly evident in this situation (Scientifica, n.d.).

Furthermore, the lack of consistent international enforcement mechanisms weakens the accountability of states in upholding migrants' rights, further complicating efforts toward a rights-based governance approach (Betts, 2010). The lack of consistent international enforcement mechanisms weakens the accountability of states in upholding migrants' rights, further complicating efforts toward a rights-based governance approach. In Malaysia, migrant workers play a vital role in strategic economic sectors such as construction, manufacturing, plantations, and domestic work. Migrants who lose their work permits due to contract termination, policy changes such as a recruitment freeze, or exploitation by agents are often trapped in an undocumented status which automatically cuts off their access to legal protection (Devi, 2020). The absence of formal employment contracts leaves migrant workers without a legal basis to claim their rights. Many of them do not understand the contents of the contract due to language barriers or experience unilateral changes after arriving in Malaysia.

As a result, the rights to a living wage, humane working hours, and employment insurance cannot be enforced. In fact, some have not received salaries for months but are afraid to report it due to threats of deportation or intimidation from recruitment agents (IOM, 2023). Malaysia's legal system, which distinguishes between formal and informal workers' legal safeguards, further erodes their low economic bargaining strength. Even when they are actually working productively, undocumented or illegal migrants are not regarded as legal subjects with the right to compensation or recourse channels (Wong, 2025). Many migrants are left to live in hazardous working conditions, subpar housing, and complete financial reliance on their employers as a result. The low economic bargaining position of migrant workers is further exacerbated by Malaysia's legal system, which differentiates protection between formal and informal workers. Undocumented migrant workers, despite their productive work, are not recognized as legal subjects entitled to compensation or access to justice (Hofmann, n.d.).

Consequently, many of them work in dangerous conditions, live in substandard housing, and are completely dependent on their employers. While Malaysia has labor protection regulations, their implementation rarely extends to undocumented migrant workers. In the long term, this creates structural economic instability, as migrants have no job security, no savings, and no access to national social protection (Aziz et al., 2022). This places them as an economically marginalized group, not because they are unproductive, but because the legal system and policies limit their equal participation. From the perspective of Human Rights Dilemmas in Migration Governance, the situation of undocumented migrant workers in Malaysia reflects a conflict between state policy interests and human rights obligations (Michael, 2024).

The state derives economic benefits from migrant workers, but refuses to provide adequate legal and social protections due to their legal status. This creates conditions of systemic marginalization and reinforces structural inequalities that not only harm individual migrants, but also undermine the legitimacy of the state's migration legal and governance systems. From a human rights standpoint, this situation embodies a clear dilemma (SaThierbach et al., 2015). Malaysia is a signatory to several international human rights instruments, such as the Universal Declaration of Human Rights, which asserts the right of everyone to just and favorable working conditions (Hussain, 2024). Malaysia has

ratified a number of international human rights treaties, including the Universal Declaration of Human Rights, which upholds everyone's right to fair and comfortable working circumstances. This method does not meet inclusive human rights standards, even though Malaysia seems to have a clear legislative framework that makes a distinction between irregular and regular migrants. In addition to offering legal protection, the ICMW functions as a human rights tool that guarantees thorough and sustainable migration governance by including all parties, including the government (Abdul Aziz & Mat Basir, 2021). Malaysia's migration policies are often ad hoc and inconsistent, leading to a chaotic governance system that fails to protect migrant workers adequately.

However, the selective enforcement of labor protections and immigration laws effectively excludes undocumented migrants from these rights, undermining the principles of equality and dignity. Furthermore, the marginalization of migrants contributes to a two-tier labor system, where legal status determines access to fundamental rights, perpetuating socio-economic divisions that conflict with the state's human rights commitments (Whelan et al., 2016). Enhancing the enforcement of labor laws and ensuring employer accountability can mitigate the exploitation of migrant workers (Tedong et al., 2018). In conclusion, the combination of strict labor policies and inadequate legal protections has reinforced the economic marginalization of migrant workers in Malaysia. The country risks remaining trapped in a cycle of exploitation that not only violates human rights but also disrupts labor market stability and social cohesion, unless changes are made to provide fair labor protections, access to legal status, and fair recruitment practices.

ASEAN Commitments VS National Policies

ASEAN-level discussions on migrant worker issues often focus on normative approaches, such as the principles of respect for human rights, decent work, and cooperation between countries. However, these approaches still fail to fully address the practical impacts directly experienced by migrant workers, particularly those in the most vulnerable positions, such as undocumented workers. To create real and meaningful protection, ASEAN discourse needs to shift from mere policy declarations to concretely addressing three key issues: access to legal protection, fairness in wage payments, and occupational safety and health.

The ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers is an agreement signed by ASEAN member states on 14 November 2017 in Manila, Philippines. This document is a continuation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. The main objective is to establish a regional cooperation framework in protecting and promoting the rights of migrant workers in the ASEAN region (ASEAN Secretariat, 2018). As a normative commitment and framework for member states to safeguard migrant workers, the ASEAN Consensus becomes extremely relevant when correlated with the article "Economic Marginalization and Human Rights Dilemmas: Migrants in Malaysia Under the Freeze of Foreign Labor Recruitment."

ASEAN has given many stakeholders, including governments, workers organizations, and civil society organizations, a place for policy discussions and cooperation through platforms like the ASEAN place on Migrant Labor (AFML). The forum allows for the exchange of views and experiences that assist in the development of migration policies at the regional level. It covers various aspects of protection, including irregular migrant workers in the domestic sector, and emphasizes the importance of cooperation among ASEAN member states to address migrant worker issues through preventive measures and national policies (Muthia, 2020).

ASEAN's commitment to protecting the rights of migrant workers, particularly through the ASEAN Consensus on the Promotion and Protection of the Rights of Migrant Workers, has had mixed effects on the human rights protection of migrant workers in Malaysia. In practice, this makes the ASEAN consensus very vulnerable to violation, especially in the context of protecting undocumented migrant workers. Because there are no legal consequences for countries that ignore the principles of protection, member countries such as Malaysia remain free to establish domestic policies that are contrary to the spirit of protection promoted by ASEAN, such as carrying out mass deportations, detention, or discriminatory treatment of migrants (Abdul Aziz & Mat Basir, 2021).

The implementation of the ASEAN Consensus has been aided by policy evaluations and debates coordinated by the ASEAN Forum on Migrant Labor (AFML). This platform promotes communication amongst different stakeholders by enabling yearly meetings and cooperation with the

International Labor Organization (ILO) (Shuto, 2022). The ASEAN Consensus is considered a "soft law," meaning it lacks binding enforcement mechanisms and sanctions. This non-binding nature makes it vulnerable to violations, particularly for undocumented migrant workers (Devasahayam et al., 2020). Consequently, the protection offered by the Consensus is often insufficient.

The sovereignty of member states, including Malaysia, often takes precedence over collective action. This results in inconsistent implementation of the Consensus, as states prioritize their national interests and policies. Malaysia has implemented a policy of freezing foreign labor recruitment, which has a direct impact on migrant workers (Petcharamesree, 2016). Malaysia's approach to migrant workers is influenced by ad hoc policies and a clear distinction between regular and irregular migrants, which complicates the protection of all migrant workers (Devadason & Meng, 2014). There are significant gaps in the implementation of migrant worker rights at the national level. Malaysia, like other ASEAN countries, faces challenges in effectively managing migrant workers, including issues related to recruitment, placement, monitoring, and repatriation (Bal & Gerard, 2018). These gaps highlight the need for stronger enforcement and amendments to existing laws to ensure equal labor standards and basic rights for migrant workers.

As a result, the regional norms promoted by the ASEAN Consensus have not been able to become an effective tool to address freedom from want, freedom from fear, and freedom to live in dignity, as the basic spirit of the human security approach (Ikawati, 2017). More than 1.2 million foreign worker positions are reported to be vacant in Malaysia due to recruitment freezes and mass repatriation of migrants, particularly since the COVID-19 and immigration policies. The significant impact of this shortage of 1.2 million workers is reflected in reduced operational efficiency, increased wage costs, and numerous project delays in the construction, agriculture and manufacturing sectors (Daniel Wong et al., 2025).

The Malaysian Employers Federation (MEF) estimates that this freeze threatens 230,000 workers in the agricultural sector, 300,000 in construction, 200,000 in manufacturing, and 100,000 in the service sector; a total of approximately 830,000 critical positions. Additionally, the Malaysian Manufacturing Federation (FMM) emphasizes that this recruitment freeze has disrupted the supply chain, particularly due to the lack of illegal workers who typically fill sudden vacancies, as well as increasing administrative barriers for companies (Joshua Purushotman, 2025). This issue highlights a serious gap between ASEAN's normative commitments and implementation at the national level. The non-legally binding nature of ASEAN's commitments allows member states to shirk their responsibilities without any real legal consequences. Furthermore, the principles of the ASEAN Way, which emphasize non-interference, consensus and respect for national sovereignty, often undermine ASEAN's capacity to respond effectively to human rights violations (Caballero-Anthony, 2022).

In this case, the correlation between national policies and ASEAN commitments is asymmetrical and problematic. ASEAN provides ethical and moral standards for the protection of migrants, but Malaysia and other countries continue to adhere to their national policies, which may conflict with these commitments. ASEAN's inability to offer strong and tangible legal protection is weakened by the lack of enforcement mechanisms. The lack of mechanisms leaves migrant workers, especially undocumented ones, vulnerable, economically marginalized, and without access to justice or redress when their rights are violated. While ASEAN has succeeded in creating a moral and diplomatic framework for migrant protection (Chin, 2017).

The divergence between ASEAN's regional commitments and Malaysia's national policies highlights a broader issue of conflicting interests. While ASEAN promotes a collective approach to migrant worker rights, Malaysia's policies are often driven by immediate national concerns, such as labor market needs and security (Auethavornpipat, 2017). The lack of precise norms and enforcement mechanisms at the ASEAN level leads to varied interpretations and implementations among member states, causing policy deadlocks and contestations (Chung et al., 2024). The conflict between national policy and ASEAN obligations is highlighted by Malaysia's ban on hiring foreign workers. Although ASEAN offers a framework for the protection of migrant workers, there are still many obstacles and anomalies in its implementation at the national level, especially in Malaysia. To address this issue and

ensure improved protection and rights for migrant workers, a more coordinated strategy is needed that aligns national policies with regional commitments.

As a result, bridging this gap requires stronger political will, institutional reforms within ASEAN to include accountability mechanisms, and greater harmonization between national policies and regional commitments. Without these changes, migrant workers will continue to bear the burden of structural inconsistencies and remain at the margins of economic and legal protection. To enhance legal protection for migrant workers, reforms are needed to reduce administrative costs and streamline processes, making it easier for workers to obtain legal status and protection. Malaysia should amend its laws to align with international human rights standards and ensure that migrant workers receive the same labor protections as local workers (Othman & S.A. Rahim, 2014). To solve the issues of migrant worker protection collectively, ASEAN member states must participate in bilateral and international discussions. This involves combining national and international norms with ASEAN's normative framework (Allison-Reumann, 2017).

In conclusion, while the ASEAN Consensus provides a valuable framework for protecting migrant workers' rights, its non-binding nature and the prioritization of national sovereignty pose significant challenges to its effective implementation in Malaysia. Malaysia must harmonize its labor and migration laws with international standards, ensuring protections apply to all migrants, regardless of documentation (Aqmal Reza Amri et al., 2025). Malaysia should move beyond ad hoc bilateral MOUs and advocate for more binding ASEAN-wide mechanisms, such as a regional treaty on migrant labor. Regarding migrant labor, Malaysia's domestic implementation of these principles remains fragmented and ineffective, despite having affirmed them on the international stage. Malaysia can promote a more sustainable and inclusive migration strategy that aligns national sovereignty with the defense of fundamental rights by upholding its ASEAN commitments and universal human rights pledges. These contrasting perspectives highlight the complex tension between state sovereignty and human rights, economic pragmatism and ethical governance, and security-driven migration control versus inclusive labor policy. If ASEAN is to make migrant worker protection part of equitable and socially just regional integration, regional discussions must transform into practical policy platforms. ASEAN needs to develop operational measures that can be applied across countries, rather than simply normative declarations. For undocumented migrant workers in particular, this approach concerns not only rights but also the protection of dignity and safety.

This paper situates itself within these ongoing debates by interrogating the socio-economic and human rights dilemmas produced by the recruitment freeze, with a focus on the lived experiences of affected migrants. Cross-sector cooperation between the government, trade unions, civil society organizations, and the private sector is necessary to accomplish this. In order to guarantee migrant workers' access to justice through efficient and nondiscriminatory legal processes, the Malaysian government must fortify open monitoring and enforcement systems. Enhancing public education and law enforcement authorities' training on the rights of migrant workers is also necessary. By adopting an all-encompassing strategy, Malaysia would not only meet its obligations on a regional and international level, but also improve the working conditions for the millions of migrant workers who make substantial contributions to the country's economy.

CONCLUSION

The case of the freezing of Malaysian foreign workers has highlighted the substantial influence of national policy on the economic marginalization and human rights violations of migrant workers. Wages are affected in several ways by the presence of foreign workers. Unskilled and semi-skilled

foreign workers have a negative impact on wages for lower-level jobs, while skilled foreign workers have a positive impact on wages for higher-level jobs. Although Malaysia has laws protecting the rights of migrant workers, the freeze policy that has been implemented, especially during the COVID-19 pandemic, has increased the vulnerability of many migrants, especially those without documents. On the other hand, ASEAN's commitments through the ASEAN Consensus have provided an important normative foundation for the protection of migrants in the region. Migrant workers have significantly contributed to Malaysia's economic growth, particularly in the manufacturing sector.

The protection of migrant workers in the ASEAN region continues to face serious challenges, particularly for those who are undocumented. Access to legal aid is a fundamental need that is often unmet due to fear of arrest and deportation, leading many workers to hesitate to report violence or exploitation. ASEAN needs to promote the establishment of inclusive and non-discriminatory legal aid mechanisms, as mandated by the principle of access to justice in the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers.

Furthermore, economic justice in the form of decent wages is also a structural issue, with many migrant workers facing wage cuts or substandard wages without effective channels for complaints. This highlights the need to strengthen mechanisms for monitoring and enforcing applicable wage standards across sectors and countries. Equally important, occupational safety and health issues are also urgently needed, particularly in labor-intensive and high-risk sectors such as construction, manufacturing, and plantations, where protection and safety training are minimal, particularly for undocumented workers registered in the official employment system. In this context, ASEAN is urged to ensure the implementation of universal minimum occupational safety standards, regardless of immigration status, as a concrete commitment to the comprehensive protection of migrant workers' rights.

The presence of foreign workers has a mixed impact on wages. While skilled foreign workers positively affect wages for higher job categories, unskilled and semi-skilled workers negatively impact wages for lower job categories. The freeze on foreign labor recruitment in Malaysia has highlighted the economic and human rights challenges faced by migrants. While migrants play a crucial role in the economy, they are often marginalized and face significant legal, social, and economic barriers. Addressing these issues requires comprehensive policy reforms, improved legal frameworks, and inclusive socio-economic policies to ensure the protection and well-being of migrant workers and refugees in Malaysia.

However, the non-binding nature of the context and weak enforcement mechanisms have rendered these protections ineffective in practice. The gap between regional commitments and national policies that prioritize domestic interests is a major source of the human rights dilemma for migrant workers in Malaysia. Positive initiatives such as the digitalization of the migration system and the enforcement of employer responsibility represent opportunities to improve migrant protection. Therefore, stronger synergy between ASEAN and member states, as well as greater political will, are needed to ensure that migrant workers' rights and welfare become a sustainable economic sector.

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