

**Migration and SDGs in Malaysia: Implementing Policy Reform
toward Migrant Rights Protection**

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RESEARCH ARTICLE

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Abstract: This paper looks at how Malaysia has improved its efforts to protect the welfare of migrant workers in line with the United Nations' 2030 Agenda for Sustainable Development. Since 2019, Malaysia has implemented three policy changes, including expanding the national social protection systems to migrant workers, amending the Employment Act, and implementing the employer-paid model for recruitment costs. These policy and regulatory reforms are mapped to three migration-related SDGs: SDG Target 1.3 (social protection systems and measures for all), SDG Target 8.8 (labor rights and promoting safe and secure working environments for all workers), and SDG Target 10.7 (orderly, safe, regular, and responsible migration). Drawing upon document analysis, the paper refers to policy documents, legal publications, gazettes, United Nations' documents, ministerial statements, and media releases. Taken together, these policy reforms have improved migrant rights protection and shifted Malaysia's migration governance toward global convergence. However, the regulatory changes only cover documented migrants. Undocumented migrants are excluded from the protection regime due to their lack of legal status.

Keywords: fair recruitment, forced labor, Sustainable Development Goals (SDGs), social protection, zero-cost migration

In 2015, governments worldwide embraced the 2030 Agenda for Sustainable Development, intending to guide efforts to achieve the universal human rights of all individuals. The global development agenda included clear promises on migration for the first time. As part of their commitments, they pledge to collaborate globally to guarantee secure, organized, and regular migration while safeguarding the human rights of migrant laborers (Solomon & Sheldon, 2018; United Nations, 2015). The 2030 Agenda recognizes the significance of migration in advancing sustainable development. Furthermore, the idea of "leave no one behind" in the Sustainable

Development Goals (SDGs) strongly supports the integration of migrants into sustainable development initiatives, guaranteeing inclusiveness. Target 10.7 especially focuses on promoting migration that is orderly, safe, and responsible. Significantly, one indication of fair migration is that employers should shoulder the burden of recruiting expenses instead of the workers themselves (Indicator 10.7.1; Migration Data Portal, 2023; Rotaecche, 2019). The 17 SDGs and the associated 169 goals and 230 indicators have dual significance. Firstly, they recognize rights in a manner that the predecessor, the Millennium Development Goals (MDGs), had overlooked. Secondly, the SDGs

represent a significant shift in perspective, transitioning the emphasis from entitlement to the development of a framework centered on a human rights-based approach (Khoo & Tan, 2019). The 2030 Agenda has a global reach, notably prioritizing the subjects of migration and the rights of migrants. Including migration into the SDGs may advance the rights of migrant workers because several of these goals reference the international human rights agreements, social safety nets, and adherence to the International Labour Organization's vision for fair and decent work (Desmond, 2020; Likić-Brborić, 2018).

The paper examines the development made by Malaysia in protecting migrant rights and welfare. Malaysia, like other global leaders, ratified the 2030 Agenda on September 25, 2015. The 2030 Agenda has been influenced by the knowledge and accomplishments acquired during the MDGs, which were the global development objectives from 2000 to 2015 (Economic Planning Unit, Prime Minister's Department, 2017). Malaysia has intensified its efforts to enhance working conditions by bolstering enforcement and promoting worker rights. Amidst the COVID-19 pandemic, the Ministry of Human Resources (MOHR) implemented stringent procedures to ensure compliance with the minimal housing conditions for foreign workers. Malaysia launched a new mobile application for the grievance mechanism called WFW (Working for Workers), allowing workers to submit feedback on workplace issues (Economic Planning Unit, Prime Minister's Department, 2021; Low, 2022).

Laws and policies have been amended throughout the years to address the gaps and support the SDGs. Recent changes in laws and policies included the Employment (Amendment) Act 2022, stipulating that employers who engage in human trafficking or forced labor are not allowed to hire migrant workers. The second amendments to Malaysia's Employment Act were introduced on January 1, 2023. The modifications sought to align the Act with the "international standards" mandated by the Trans-Pacific Partnership, the International Labour Organisation, and the Malaysia-United States Labour Consistency Plan. The alterations included the establishment of a new criminal offense pertaining to forced labor. Second, new benefits for workplace injuries were granted to migrant workers through Social Security Organisation (SOCSO) inclusion (Lee & Pereira, 2023; Medina,

2022). From January 1, 2019 onwards, businesses that hire foreign workers are required to register their workers with SOCSO. They are obligated to pay contributions to the Employment Injury Scheme in accordance with the Employees' Social Security Act of 1969 (SOCSO, 2020). The integration of foreign workers into Malaysia's social security scheme is a positive development that aims to provide them with equal benefits as citizens. This approach is shifting due to the increasing importance placed on reaching the United Nation's SDGs (Loganathan et al., 2020). Third, businesses in glove manufacturing enterprises introduced the remediation of recruiting fees in 2020 after the U.S. Customs and Border Protection (CBP) imposed trade restrictions called Withhold Release Orders (WRO). International pressure from the U.S. compelled enterprises to enhance their ethical standards to have the sanctions repealed. Malaysian employers reimbursed the recruiting expenses that foreign workers had previously paid to the recruitment agency (Bengali, 2020; Khadka, 2020; The Edge Markets, 2020; Thomas, 2020).

The recent labor law policy reform in Malaysia raised a few questions: Why did the Government of Malaysia initiate the reforms? What are the implications of such reforms to migration governance? This paper is organized into five sections. The first section looks at case study selection and methodology, followed by the background of SDGs and their implementation in Malaysia. Then, the fourth section examines the policy reform in three migration-related SDGs (Employees' Social Security Act, Employment Act, and recruitment fees remediation program), discussing factors driving the initiatives. The last section analyses the implications of such initiatives. This paper concludes that the recent reform aligning with SDGs reveals Malaysia's labor migration governance is moving towards a rights protection model.

Case Study and Methodology

This research mapped migration-related SDGs in Malaysia to investigate the new policy initiatives taken by the government. The mapping was modified from the website of Migration Data Portal of the IOM's Global Data Institute (GDI) (<https://www.migrationdataportal.org/sdgs?node=0>). The IOM SDG section on the Migration Data Portal provides an

interactive dashboard that illustrates the connections between migration and the SDGs on a goal-by-goal basis. Three case studies were selected based on the current migration policy development in Malaysia: social security protection for migrants (Indicator 1.3.1), promoting fair recruitment practices (Indicator 8.8.2), and implementing the employer-paid model for recruitment cost (Indicator 10.7.1). Data for the case studies was generated from four sets of documents: parliamentary debates (Hansard documents) on the related labor reform; legislations, gazettes, and bills on the case studies; online media articles (*Edge Markets*, *Free Malaysia Today*, *MalayMail*, *News Straits Times*, *Reuters*, *Star Online*, and *Sun Daily*) on the labor laws developments; and reports by inter-government organizations (International Labour Organisation and World Bank) on migration-related SDGs and forced labor.

Then, an in-depth analysis was conducted on each of the case studies based on qualitative content analysis. The process involved the following steps: formulating research inquiries, choosing relevant material, creating a coding framework, dividing the material into coding units, testing the coding framework, evaluating and refining the coding framework, analyzing the data, and presenting the research findings. A coding frame functions as a systematic approach to arrange and classify data in connection to the research inquiries. It often consists of a few primary categories, each accompanied by its own subcategories. The coding frame is constructed through data-driven strategies; it is an inductive process whereby categories and subcategories are developed depending on the analysis of the data. Utilizing a data-driven approach in constructing a coding frame is suitable when the objective is to provide a comprehensive description of the collected data. The process of working inductively involves the systematic creation of categories and subcategories based on empirical facts (Schreier, 2012).

Literature Review: SDGs and Their Implementation in Malaysia

The worldwide community has established the objective of improving the living circumstances of impoverished and disadvantaged populations via the 2030 Agenda, which is guided by the concept of “leave

no one behind.” Migrants and refugees have been intentionally included from the beginning (Koch & Kuhnt, 2020). Migration may significantly contribute to good development outcomes, hence facilitating the achievement of the objectives outlined in the 2030 Agenda. In addition to alleviating poverty and ensuring access to healthcare and education, migration also enhances the self-governance and socioeconomic standing of migrants, especially female migrants. The 2030 Agenda acknowledges refugees, internally displaced persons, and migrants as vulnerable individuals and calls for their empowerment and the fulfillment of their needs (Swain, 2019). There is a growing concern for a fair migration agenda that integrates development goals with migrant labor rights (Jensen, 2022). The rationale for advocating a comprehensive rights-based approach is rooted in the significant deficiencies in the prevailing framework that shapes the global migration policy, as well as in the prevailing policy concerning the hiring of foreign workers. One advantage of these treaties is that they specifically address the rights of migrant workers and, to an extent, go beyond the concept of fair employment to promote the importance of dignity in labor by establishing various social safeguards (Piper et al., 2016). Providing more opportunities for legal migration would positively impact the development of both the sending and receiving countries and the migrants. This would result in a mutually beneficial outcome, sometimes referred to as a “triple win” scenario (Piper, 2017).

Human and labor rights violations among migrants have occurred because of the absence of an inclusive framework for migration governance, inadequate emphasis on the human rights aspect, and lack of accountability in redress mechanisms. The institutional architecture of global migration governance has been “informal, ad hoc, non-binding, and state-led” (Crépeau & Atak, 2016, p. 113). The most difficult challenge in advancing a rights-based migration agenda is shifting the focus of migration policy from national security concerns, which criminalize migrants, to development and international cooperation concerns. Governments and civil societies must advocate for an agenda that addresses the issues of fair trade, human security, free and voluntary mobility, decent work principles, and social inclusion (Wise et al., 2013). Civil society and migrants’ advocacy organizations have strongly criticized the current structure and practice of labor

migration governance for being focused on “migration management” rather than migration policies based on rights. The rights-based migration framework, founded upon the principles of international human rights law, should be the basis for all migration policy (Hujo, 2019). Jones (2022) argued that it is necessary to dismantle the structural influence of agents to regulate global labor movement in a way that respects rights and promotes social equity. The ILO launched the “Fair Recruitment Initiative” in 2014, acknowledging that fair recruiting is becoming an integral aspect of global migration policy. The initiatives encompass three primary goals: to deter human trafficking and forced labor; to safeguard the rights of workers from exploitative practices throughout the entire placement process; and to decrease the financial burden of labor migration while simultaneously improving the overall development outcomes for foreign workers (ILO, 2015).

However, migration does not always fulfill its promise to alleviate poverty due to exorbitant expenses, unfavorable circumstances in the host nations, and obstacles to movement. The advantages of migration are maximized for both host nations and migrants when migration occurs via secure, consistent, and well-organized channels (Hagen-Zanker et al., 2017). Achieving the SDGs in relation to migration has specific difficulties. International migrants are inherently vulnerable due to their status of residing outside their country of citizenship. Individuals with an irregular immigration status are more susceptible to experiencing abuse and exploitation. International migrants are often neglected when nations develop action plans to meet the SDGs (Desmond, 2020). If the SDG process continues to replicate the state-focused approach to global development planning seen in the MDGs, it will fail to provide effective solutions for the issues faced by migrants. Sexsmith and McMichael (2015) advocated for the addition of universal global objectives with locally established, democratically formulated strategies for envisioning and executing radical social transformation. It is important to provide sufficient space at the community or local level to facilitate the inclusive formation of desired outcomes and the strategies to get them.

Malaysia has established an enabling environment to systematically and quantifiably adopt and execute the 17 SDGs by implementing some initiatives. The government has established a governance structure

directed by the National SDG Council, which includes multiple stakeholders and chaired by the Prime Minister (Economic Planning Unit, Prime Minister’s Department, 2017). The National SDG Council serves as the primary decision-making entity for the national SDG governance framework. The Council supports and oversees the implementation of the SDGs, and tracks progress towards achieving the objectives outlined in the 2030 Agenda. The National Steering Committee (NSC) is responsible for compiling the country reports that are submitted to the United Nations through the High-Level Political Forum on Sustainable Development (Economic Planning Unit, Prime Minister’s Department, 2021). A National SDG Roadmap was prepared in three distinct stages, spanning from 2016 to 2030, in accordance with the country’s three national development goals: 11th Malaysia Plan (2016–2020), 12th Malaysia Plan (2021–2025), and 13th Malaysia Plan (2026–2030). Furthermore, the All-Party Parliamentary Group on SDGs was established to strengthen the process of localizing the SDGs (Economic Planning Unit, Prime Minister’s Department, 2021). At the national level, the Cabinet appointed an Independent Committee on Foreign Worker Management in 2018. The Report of the Independent Committee suggested revamping the foreign worker management system in various aspects, such as standardizing MoUs, implementing the National Foreign Workers Management System, and improving employment contracts, among others. The Report suggests terminating the enforcement operation called “Ops Mega” and changing the Immigration Department’s attention from enforcement activities to the causes and circumstances that contribute to the occurrence of irregular migrants. Enforcement agencies’ key performance indicators, which are calculated by counting the number of illegal immigrant arrests, should be re-evaluated (Institute of Labour Market Information and Analysis, 2023). Next, the paper examines the reform taking place in relation to Target SDGs 1.3, 8.8, and 10.7.

Expanding the National Social Protection System to Migrant Workers (SDG Target 1.3)

Prior to the state’s social security overhaul in 2019, migrant workers were subjected to a separate and less advantageous social security system for workplace

accidents, as opposed to the social security system that local workers enjoyed. Migrant and local workers have been included in separate social security schemes since 1993. Local workers were safeguarded by the Employees' Social Security Act 1969, administered by the SOCSO, while migrant workers were included in an insurance program known as the Workmen's Compensation Act (WCA) 1952. Under the WCA, the Foreign Workers Compensation Scheme (FWCS) granted a fixed payout in the form of a lump sum for instances of permanent disability or death. However, the amount was very modest, resulting in disparities in the treatment of national and non-national workers. As a consequence of this unequal treatment, a significant number of foreign workers lacked insurance coverage or had insufficient coverage, in turn resulting in employers failing to pay their medical expenses (Harkins, 2016; World Bank, 2013).

The reduced benefits offered by the WCA Act resulted in less compensation for migrant workers who sustained injuries. The medical expenses of local workers were covered by SOCSO, whereas the expenses of foreign workers were covered by their employer. This situation was susceptible to exploitation because the employer might fail to provide the wounded employee with adequate medical care (Devadason & Chan, 2014). Despite their contribution to Malaysia's economic prosperity, migrant workers were subjected to unequal treatment in terms of employment pay. Based on a simulation (January 1, 2010 to December 31, 2014) conducted by the ILO, if a national worker suffered a permanent injury, they were eligible for regular payments of MYR425,000 (SOCSO system), whereas a migrant worker would receive a one-time payment of MYR23,000 (the WCA). The disparity in workplace compensation between migrant workers and national workers remained significant, with migrant workers only receiving 5.4% of the entitlements awarded to local workers (ILO, 2017, 2018).

Starting from January 1, 2019, companies are required to enroll all migrant workers in the SOCSO system as per the new regulation. The equal protection policy was established in response to a direct contact mission steered by the ILO in 2018 to assess Malaysia's compliance with Convention 19 (known as C19). This mission was prompted by complaints received by ILO about the challenging situations faced by millions of migrant workers who had inadequate coverage for workplace compensation. The three-

day expedition assessed the availability of healthcare services for work-related injuries and supported the implementation of C19 at the national level: equitable treatment in accident compensation for both domestic and international workers ("Migrant Workers to be Fully Socso-Insured," 2019). As a result, SOCSO assumed the responsibility for providing compensation for accidents involving foreign workers (SOCSO, 2018). Employers are required to pay a contribution rate of 1.25% of the covered monthly salary. The need to register with SOCSO applies to foreign workers who arrive in Malaysia on or after January 1, 2019. Once the protection coverage under the FWCS for existing foreign workers expired on December 31, 2019, it would be replaced with SOCSO (SOCSO, 2020). The government has implemented a new policy that includes an effective protection control system. This system provides improved data for monitoring the quantity and characteristics of foreign workers, as well as data on their employers. Noncompliance by employers in contributing to SOCSO will result in mandatory enforcement measures. Foreign workers who have valid working permits are eligible for registration with SOCSO ("Kula: Workmen's Compensation Act," 2018).

The implementation of the system would further provide advantages to companies by mitigating the financial burden of medical expenses incurred by their foreign workforce in the event of workplace injuries ("Deputy Minister," 2019). Starting on October 1, 2019, businesses who have registered with SOCSO may now request reimbursement for repatriation expenses related to the deceased foreign workers in circumstances of non-workplace deaths. Employers may claim a maximum payout of MYR4,500 with the following criteria: employers must register their foreign workers with SOCSO, the foreign worker passed away in Malaysia and this has been verified by official death papers; and the death must have taken place on or after October 1, 2019. The provision of financial aid is not applicable if the foreign worker is already covered by their home country's existing social security system for the repatriation of remains (SOCSO, 2019).

Starting from June 1, 2021, foreign domestic workers are included in the coverage of the Employment Injury Scheme under the Employees' Social Security Act [Act 4]. Meanwhile, citizens, permanent residents, and temporary residents who work as domestic workers

are protected by the Employment Injury Scheme and Invalidity Scheme (SOCSO, 2023). The Employment Injury Scheme would provide protection to 89,400 foreign maids and 15,000 local maids. The reform is aligned with the government's goals of acknowledging the economic contributions of domestic workers and advocating for their entitlement to adequate social security coverage. Employers may begin the registration process with SOCSO starting on June 16, 2021 and those who fail to register their domestic workers may be subject to imprisonment for up to two years and a fine of MYR10,000 upon conviction (Daim, 2021).

Improving the Protection and Welfare of Migrant Workers (SDG Target 8.8)

In March 2022, the Employment (Amendment) Act 2022 was passed by the Parliament. The amendments to the Employment Act 1955 were implemented on January 1, 2023, with a majority of the amendments being aligned with the ILO convention (Radhi, 2022). The Employment Act 1955 is the main labor law that regulates the relationship between employers and employees in the private sector through the establishment of employee rights and minimum employment standards. The Employment Act was amended to realize the government's commitment to review labor laws to strengthen the labor market and employee welfare, and prohibit discriminatory practices by employers. Its objective is to improve the protection and welfare of workers while ensuring that the national labor legislations are consistent with the international labor standards of the ILO. This proposed amendment involves 46 clauses, including 28 revised clauses, 10 new clauses, and six repealed clauses (Malaysia, 2022a, p. 25). According to legislative history, the Employment Act 1955 was enforced in 1957 when the Federation of Malaya achieved independence, and it has been amended 11 times, with the last amendment taking place in 2012. (Malaysia, 2022a, p. 52). The latest amendment in 2021 provides safeguards against discriminatory practices and forced labor. Clause 24 aims to replace the current section 60K of Act 265 in order to provide additional criteria for the hiring of a foreign worker. Clause 25 aims to include a new section 60KA into Act 265, which will address issues pertaining to the

dismissal of a foreign employee. Clause 40 proposes the addition of a new section 87A to Act 265, which grants the court the authority to compel an employer to make any outstanding payments owed to an employee. Clause 41 aims to include a new section 90B into Act 265, which establishes the crime of forced employment (Employment (Amendment) Act 2022).

To employ a foreign worker, the employer must show that there are no outstanding cases associated with any convictions for offenses under the Employment Act, the Employees' Social Security Act 1969, the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990 or the National Wages Consultative Council Act 2011. The employer must have a clean record and not have been found guilty of any violation of laws related to human trafficking and forced labor (Section 60K(4), Employment (Amendment) Act 2022). Any violation is subject to a fine up to MYR100,000 or imprisonment for a maximum of five years, or both (Section 60K(5), Employment (Amendment) Act 2022). If a foreign worker's service is ended by their employer (due to the expiration of the employment pass or due to the foreign employee being sent back to their home country or deported), the employer must inform the Director General within 30 days. If a foreign worker ends their job or runs away from their workplace, the employer must inform the Director General within a period of 14 days after the termination or the employee's absence (Section 60K(a), Employment (Amendment) Act 2022). According to the Ministry of Human Resources, the approval is necessary because previous rejections of applications have been caused by their noncompliance with labor laws. Section 60K(4) functions as a first assessment of employers to guarantee that they possess untarnished records that comply with employment regulations. The reputation of the nation was damaged due to instances of forced labor, resulting in glove and palm oil firms being prohibited from exporting their products to the United States. In 2021, the U.S. Customs and Border Protection prohibited the import of rubber gloves and palm oil because of forced labor (Ibrahim, 2022).

A new section on forced labor was created to improve the Act. This new section states that any employer who uses coercion, deception, or force to make an employee engage in any work, and restricts the employee from leaving the workplace commits a crime. Upon conviction, the employer may be imprisoned for

a maximum of two years, fined up to MYR100,000, or both (Section 90B, Employment (Amendment) Act 2022). On non-payment of wages, the Act has been modified by adding Section 87A, which pertains to court-ordered payments owed to employees. If an employer is found guilty of a crime related to the payment of wages under this Act, the court that convicts them has the authority to compel the employer to make the necessary payments to the employee for that particular offense. If an employer does not comply with an order, the court will issue a warrant to seize the employer's assets to collect any payments owed (Section 87A, Employment (Amendment) Act 2022). Another important addition includes Section 101C, which eliminates the incidence of employers avoiding their responsibility to contribute to social security (SOCSO) because the employer deliberately takes workers without a contract or as contract workers. Previously, the inadequacies in national laws affected both Malaysian and migrant workers, including the absence of healthcare benefits for workers covered by the Employment Act. Amending the Employment Act to explicitly outline the employer's obligation to provide healthcare for all employees has positively impacted all individuals, aligning Malaysia with the SDGs (Loganathan et al., 2020; Malaysia, 2022a, p. 45).

The Employment (Amendment) Act 2022 is a significant law reform measure to enhance the protection of workers. Overall, it shows the government's efforts and commitment to ensuring that the country's labor laws are consistent with labor standards and universal instruments to improve Malaysia's image and facilitate its participation in any international trade (Malaysia, 2022a, p. 29). In 2020, the U.S. CBP introduced a series of trade restrictions called Withhold Release Orders (WRO). These actions included import bans specifically aimed at selected companies involved in the rubber glove business. Malaysian firms have adopted remediation programs and committed to implementing a cost-free recruitment strategy in their operations to eliminate import bans (Edge Markets, 2020; Thomas, 2020). The U.S. Department of Labor has recognized four distinct commodities produced by forced labor in Malaysia, as outlined in their study titled, "2020 List of Goods Manufactured by Child Labour or Forced Labour." The aforementioned commodities include rubber gloves, palm oil, electronics, and clothing (U.S. Department of Labor, 2020). Between 2000 and 2022,

Malaysian producers of rubber gloves and palm oil products have been subjected to a WRO by the CBP. To ensure that the issue of forced labor can be dealt with in an orderly manner, the MOHR visited Washington, United States, from May 8–13, 2022. Among the laws amended was the Employment Act, which included provisions regarding forced labor (Malaysia, 2022b, pp. 16–17).

Concurrently with the discussion of the Employment Act, Malaysia revised the minimum wage for both national and foreign workers in 2022. The latest minimum wage rate of MYR1,500 in Malaysia took effect on May 1, 2022, coinciding with Labour Day with the Minimum Wages Order 2022. This translates into MYR7.21 an hour. According to daily pay, this is equal to MYR57.69 for a six-day work week, MYR69.23 for a five-day work week, and MYR86.54 for a four-day work week (Federal Government Gazette, 2022; Ida 2022). The implementation of statutory minimum wages in Malaysia began on January 1, 2013, in compliance with the Minimum Wages Order 2012. The national minimum wage (including foreign workers) for Peninsular Malaysia was established at MYR900 per month (MYR4.33 per hour); however, for Sabah and Sarawak, it was somewhat lower at MYR800 per month (MYR3.85 per hour) (Abella & Martin, 2016; Federal Government Gazette, 2012). The minimum wage was raised to MYR1,000 (the Peninsular) and MYR920 (Sabah, Sarawak, and Labuan) in July 2016. Effective January 2019, a further amendment was implemented, mandating a standardized minimum salary of MYR1,100 per month for the Peninsular, Sabah, Sarawak, and Labuan. The national minimum salary was raised to MYR1,200 per month starting from February 2020, as stipulated in the Minimum Salary Order 2020 (Devadason, 2021).

Implementing Recruitment Fees Remediation Program (SDG Target 10.7)

In a governance framework that prioritizes rights, remedies and dispute-resolution mechanisms must be available. Timely mediation is essential as it provides prompt compensation to address the economic burden of debt faced by underpaid, low-skilled workers. This ensures recruiting agencies do not abuse the desperation of migrant workers, resulting in their receiving less compensation than they are entitled to (Farbenblum,

2017). Ethical recruiting encompasses the obligation of corporations to pay recruitment fees, implement a thorough process of due diligence, offer pre-departure training, and ensure the fulfillment of their workers' human rights. Employers possess significant market power to exert influence on labor recruiters and middlemen, therefore ensuring the ethical conduct of recruiting. This necessitates the inclusion of employers as participants in the migration industry, alongside labor recruiters and intermediaries (Wahab, 2020). The primary impediments to the implementation of ethical recruitment in Malaysia stem from the inadequacies in corporate policies and practices pertaining to governance. Although companies are meeting the necessary recruitment standards, they lack well-defined strategies and procedures for recruitment management. The businesses' social policies have shown a notable deficiency in prioritizing worker rights and ethical recruitment procedures. Furthermore, employers neglect to provide a mechanism enabling workers to voice their concerns about their recruitment and migration experiences, which is an essential step in executing any necessary remedial actions (Earthworm Foundation, 2019). The Government of Malaysia is gradually recognizing the need for fair recruiting standards, particularly the employer-pays-model, as a result of potential trade penalties, lobbying by civil societies, and pressure from the nations where the migrants come from. In 2018, Bangladesh declined to dispatch laborers, Nepal prohibited the dispatch of laborers, and Indonesia contemplated implementing a temporary prohibition on dispatching domestic workers to Malaysia. In response, Malaysia revised the bilateral agreements with home countries to overhaul the flawed recruiting system that resulted in labor problems with Nepal, Bangladesh, and Indonesia (Low, 2020).

The state's position in the TIP index has not improved much since 2014. In 2014, the state was ranked Tier 3, 2015 (Tier 2 Watch List), 2016 (Tier 2 Watch List), 2017 (Tier 2), 2018 (Tier 2 Watch List), 2019 (Tier 2 Watch List) and 2020 (Tier 2 Watch List) and 2021 (Tier 3). Tier 3 is the lowest tier, indicating the state did not meet the minimum standards for effectively addressing human trafficking (U.S. Department of State, 2021). The ILO has identified 11 specific characteristics that are typical of forced work. The indicators encompass the exploitation of individuals who are vulnerable, deceptive practices, restrictions on freedom of movement, isolation,

occurrences of physical and sexual abuse, threats, confiscation of passport documents, withholding of wages, bondage resulting from debt, oppressive working and living conditions, and overtime. In some circumstances, the presence of forced labor may be identified by a single element, but in other instances, many indicators may also be seen (ILO, 2012). During the COVID-19 pandemic, forced labor among workers in the medical gloves industry worsened due to the increased demand for global production needs and the difficulty of hiring new workers. The forced labor indicators in the sector were present prior to the pandemic, but they were exacerbated during the pandemic (Hughes et al., 2023).

Companies use their remediation programs to enhance the welfare of foreign workers. In July 2020, many glove manufacturing companies in Malaysia began the practice of compensating the recruitment fees for migrant workers. WRP Asia Pacific reimbursed MYR21.4 million (USD5 million), Hartalega reimbursed MYR40 million (USD9.5 million), and Top Glove initially announced a MYR53 million (USD12.65 million) remediation package (Bengali, 2020; Edge Markets, 2020; Thomas, 2020). WRP Asia Pacific set a precedent by reimbursing the recruitment costs for its 1,600 migrant workers, including Nepal. Nepali workers received MYR4,547, regardless of the recruitment costs they paid in Nepal (Mandal, 2020). In July 2020, WRP initiated a remedial initiative for MYR21.4 million (USD5 million) to have the import ban (WRO) (imposed in September 2019) lifted by the CBP. The remediation package would provide reimbursement for the financial liabilities that workers had incurred in their country of origin to get employment in Malaysia. As a result, the workers would have the means to pay their recruitment expenses, thereby avoiding the danger of being trapped in debt bondage and being coerced into slavery. The restriction on WRP Asia Pacific was revoked in March 2020 when the company effectively resolved the indications of forced labor (Thomas, 2020).

Top Glove initiated the distribution of compensation to its migrant workers beginning in August 2020 in response to similar import restrictions imposed by the CBP (in July 2020). Top Glove conducted remedial arrangements to remove the ban and swiftly commenced refunding recruitment fees to its migrant workers. The firm forecasted a disbursement of MYR53 million (USD12.65 million) for remediation,

and around 10,000 migrant laborers were expected to be compensated for recruitment fees (Lee, 2020). Following the recommendation of an external specialist, the company upgraded its reimbursement payment to MYR136 million (USD32.77 million) for their migrant employees. The increased amount exemplified its obligation to eliminate the practice of workers being charged for recruitment-related fees (Lim, 2020). Top Glove also implemented other measures, such as banning unethical recruitment firms, improving the living conditions of workers, and reiterating its dedication to zero-cost migration. The firm started its cost-free recruitment approach on January 1, 2019; nevertheless, the agents in the nation of origin have continued to impose recruitment expenses (Adam, 2020; Top Glove Corporation Bhd, 2020).

In August 2020, Hartalega Holdings Bhd developed a corrective approach to repay recruiting expenses and made a commitment to improve its social compliance in order to meet international standards. The company has earmarked MYR40 million (USD9.5 million) for the reimbursement initiative, with the goal of completing it within a 24-month period. The organization actively collaborated with several partners to address the intricate issue of recruiting costs associated with overseas employees. The corporation began its zero-cost recruiting strategy on April 1, 2019 before the United States imposed the embargo. The recruiting fee remediation scheme was extended to foreign workers engaged by the firm before April 2019. In early 2020, an external business was commissioned to conduct interviews with impacted workers. The due diligence approach was used in the process of selecting recruiting agencies inside the domestic jurisdiction (Hartalega, 2021).

Conclusion

The labor law reform discussed above was partly caused by Malaysia's commitment to eradicate forced labor and to abide by ILO's standards on labor rights. By reforming the Social Security Act and Employment Act, the government has established minimum standards that protect migrant rights during their stay in the country. The recent reforms on Target SDGs 1.3 brought the national legislation towards partial equality between local and foreign workers,

bridging the protection gap between local and foreign workers. However, only local workers are entitled to the Employment Insurance System Act (2017), which provides benefits for loss of employment. Amendment to labor laws tackles these deficiencies in de jure protection and assures employer adherence to immigration and labor regulations. The labor law reform could not yield the wanted deterrence effect without remedy, grievance mechanism, and workplace monitoring. At the company level, remediation of recruitment fees to foreign workers assures employer adherence to the zero-migration cost principle, an action caused by international pressure and the state's commitment to combat forced labor. Remedy addresses the implementation gaps.

With the social and labor rights enshrined in the legislation, there is a need to close the implementation gap so that the enforcement of labor law against unethical employers could prevent precarity. The MOHR has built a digital grievance portal called Working for Workers. NGOs have made attempts to implement grievance forums, such as Just Good Work, to enable disadvantaged migrant workers to voice their objections and grievances for settlement (Wahab & Shamsuddin, 2023). At the bilateral level, collaborative efforts to safeguard migrant workers are implemented through the 2022 MoU between Indonesia and Malaysia. The agreements specify the rights and responsibilities of workers, employers, and governmental agencies accordingly (Prianto et al., 2023). This paper suggests that the comprehensive reform of labor migration management could be interpreted as an effort towards rights-based solutions. It is important to acknowledge that the reforms in labor laws are only applicable in addressing labor rights breaches for documented workers, but not undocumented workers. Their lack of legal status is the main barrier prohibiting undocumented workers from claiming their rights under labor law.

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