

The Continuous Precarious Situation of the Refugees and Migrant Workers in Malaysia Post-COVID-19

Situasi Genting Pengungsi dan Pekerja Migran di Malaysia yang Berkelanjutan Pasca-Covid-19

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ABSTRACT: The COVID-19 pandemic exacerbated the vulnerabilities faced by refugees and migrant workers globally, and Malaysia was no exception, where these groups encountered significant challenges exacerbated by their marginalized legal status. Often perceived as illegal, refugees and migrant workers faced widespread discrimination and neglect during Malaysia's efforts to manage and contain the virus. This environment fostered xenophobic attitudes among both the government and the general population, undermining efforts to protect these vulnerable populations from abuse, exploitation, and discrimination. Compared to international standards, Malaysia's response to safeguarding the rights of refugees and migrant workers fell short, as evidenced by their inadequate protection measures during the pandemic. This paper seeks to shed light on the dire conditions experienced by these groups throughout the COVID-19 crisis and their ongoing precarious situation. Drawing from a range of primary and secondary sources including official statements, mainstream media reports, and findings from local and international organizations, the research underscores persistent challenges faced by refugees and migrant workers. The findings reveal that despite sporadic efforts, the fundamental situation for these vulnerable groups remains largely unchanged, with systemic issues of discrimination and neglect persisting. In response, the paper advocates for urgent reforms and the implementation of comprehensive policies by the Malaysian government to improve conditions and protect the rights of refugees and migrant workers effectively. These reforms are essential not only for meeting international human rights standards but also for fostering a more inclusive and equitable approach to public health crises and broader social welfare policies.

ABSTRAK: Pandemi COVID-19 menempatkan populasi global dalam keadaan yang tidak menentu dan yang paling rentan adalah para pengungsi dan pekerja migran. Sudah menjadi narasi umum bagi pemerintah dan masyarakat untuk memperlakukan mereka dengan acuh tak acuh karena status ilegal mereka sehingga menciptakan lingkungan xenofobia terhadap mereka. Situasi serupa terjadi pada kelompok rentan di Malaysia selama penanganan dan mitigasi penyebaran COVID-19 yang mengakibatkan pemerintah Malaysia mengabaikan hak asasi manusia yang mendasar untuk melindungi pengungsi dan pekerja migran dari diskriminasi, pelecehan, dan eksplorasi. Berdasarkan standar internasional, Malaysia masih jauh dari membela hak-hak kelompok rentan, khususnya para pengungsi dan pekerja migran. Oleh karena itu, tulisan ini bertujuan untuk menyoroti dan mendiskusikan kondisi para pengungsi dan pekerja migran selama COVID-19 dan situasi genting yang terus menerus menimpa mereka. Data dikumpulkan dari sumber primer dan sekunder seperti pernyataan resmi, media arus utama, dan laporan dari organisasi lokal dan internasional. Temuan menunjukkan bahwa situasi genting masih tetap sama bagi kelompok rentan ini, oleh karena itu pemerintah Malaysia harus secara serius mengambil kebijakan yang komprehensif untuk meringankan kondisi buruk yang menimpa mereka.

Keywords:

COVID-19;
human rights;
precarious situation;
refugees;
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1. Introduction

In early 2020, the entire world came to a standstill when the COVID-19 virus spread rapidly resulting in a global pandemic. It greatly affected countries across the globe, from all aspects namely the socioeconomic, social welfare, and the public health of people. Among the most affected communities around the globe were the vulnerable groups: the refugees and migrant workers. With the closing of borders to curtail the pandemic, several situations transpired for these refugees and migrant workers disabling them neither to move forward nor to find a haven in the countries they were residing in.¹ Refugees escaping political turmoil during the pandemic increased exponentially for instance the Rohingyas from Myanmar and Bangladesh² and migrant workers documented and undocumented faced increasing difficulties³ due to the containment measures placing them in vulnerable situations whilst increasing the risk of serious forms of discrimination.

Malaysia is one of the favourite destinations due to its strategic location in Southeast Asia for refugees seeking refuge and migrants for job opportunities, especially in difficult sectors such as construction, plantations, manufacturing, and service. The Malaysian government has different ways of approaching the concerns of these groups despite endorsing the Universal Declaration of Human Rights (UDHR) in 1999 when the Human Rights Commission of Malaysia Act 1999 was passed hence the provision of the Federal Constitution of Malaysia is to provide for the protection of basic human rights standards. During the pandemic, Malaysia like all other countries, imposed Movement Control Orders (MCOs) to thwart the rapid spread of the coronavirus disease. Without a doubt, this preventive measure was a good move however, the refugees and the migrant groups were marginalised, and Malaysia was among the nations that disregarded these vulnerable groups selectively and continue to do so post-pandemic. This article aims to address the continuous precarious situation of refugees and migrant workers in Malaysia in the post-COVID-19 which seems to be an endless problem. Whilst the objective is to highlight the existing situation of the refugees and migrants in Malaysia, the paper will also demonstrate how the pandemic affected these communities and analyse the efforts of the government during and after the pandemic. To provide a further understanding of this situation, the study leverages existing literature and secondary sources about COVID-19's impact, refugees, and migrant workers cases, including academic writing, reports from international organisations and non-governmental organisations (NGOs) as well as media coverage.

According to the United Nations High Commissioner for Refugees (UNHCR), refugees are groups of people under duress circumstances such as conflict, violence and persecution forced to escape by crossing an international border.⁴ Whereas, migrant workers according to the International Organisation for Migration (IOM), are foreign workers who are attached to a host country for work purposes and are not residents.⁵ Most literature written on refugees and migrant workers are either before the pandemic⁶ giving insights on the importance of these people to the economics of Malaysia whilst they are treated badly or during the crisis.⁷

Before the pandemic, Malaysia was already home to a significant population of refugees and migrant workers. Many of these refugees fled conflict, persecution, or economic hardship in their home countries, seeking security and better opportunities in Malaysia. Some of these refugees are from neighbouring countries in the region. By the end of July 2023, the UNHCR⁸ highlighted approximately 182,010 refugees and asylum-seekers listed with the UNHCR office in Malaysia with 66 per cent being men and women at 34 per cent. Also, there are some 50,000 children registered below the age of 18. Many of these refugees are from the conflicting country

1 UNODC, "COVID-19 And The Smuggling Of Migrants: A Call For Safeguarding The Rights Of Smuggled Migrants Facing Increased Risks And Vulnerabilities," Research Brief. Vienna, 2021.

2 Amnesty International, "COVID-19 no excuse to sacrifice Rohingya lives at sea," April 17, 2020, <https://www.amnesty.org/en/latest/news/2020/04/covid-no-excuse-sacrifice-lives-more-rohingya-seek-safety-boat/>

3 Claudine Burton-Jeangros, Aline Duvoisin, Sarah Lachat, Liala Consoli, Julien Fakhoury, and Yves Jackson. "The impact of the Covid-19 pandemic and the lockdown on the health and living conditions of undocumented migrants and migrants undergoing legal status regularization," *Frontiers in Public Health* 8 (2020): 596887.

4 See United Nations High Commissioner for Refugees (UNHCR), <https://www.unhcr.org/about-unhcr/who-we-are/high-commissioner>

5 See IOM, "IOM definition of Migrant," <https://www.iom.int/who-migrant-0>

6 Amarjit Kaur, "Plantation Systems, Labour Regimes and the State in Malaysia, 1900–2012," *Journal of Agrarian Change* 14, no. 2 (2014): 190-213; Lee Hwok-Aun and Khor Yu Leng, "Counting migrant workers in Malaysia: A needlessly persisting conundrum," *ISEAS Perspective* 25 (2018): 1-11.

7 Sharmin Jahan Putul and Md Tuhin Mia, "Exploitation of migrant workers in Malaysia and protection under domestic laws," In Proceedings of the International Law Conference (iN-LAC), 2020: 125-131; Andika Wahab, "Migrant Workers and Covid-19 Outbreak in Malaysia," Institute of Malaysian and International Studies, Universiti Kebangsaan Malaysia, 2020; Andika Wahab and Mashitah Hamidi, "COVID-19 Pandemic and the Changing Views of Mobility: The Case of Nepal–Malaysia Migration Corridor," *Comparative Migration Studies* 10, no. 1 (2022): 44

8 UNHCR, "Figures at a Glance in Malaysia," 2023 <https://www.unhcr.org/my/what-we-do/figures-glance-malaysia>

Myanmar with an estimated 158,500 individuals, comprising some 105,960 Rohingyas, 23,700 Chins, and 28,840 of other ethnic groups from conflict zones or escaping violence and persecution in Myanmar. Additionally, around 23,510 refugees and asylum-seekers are from different parts of the world. They are from 50 countries around the world escaping conflict and oppression, including some 6,710 Pakistanis, 3,190 Afghans, 3,140 Yemenis, 2,940 Somalis, 2,670 Syrians, 1,340 Sri Lankans, 680 Iraqis, 580 Palestinians, and among others.⁹ The majority of these refugees have no permanent employment due to their status and frequently face social stigma, discrimination, and threats from the locals and other foreign communities.

Meanwhile, the IOM in Malaysia reported that between 2018 and 2020, the Malaysian government acknowledged that an estimated 1.4 to 2 million documented migrants were in the country.¹⁰ However, a World Bank¹¹ report provides a higher estimate of 2.96 to 3.26 million foreign labourers. These figures also include the 1.23 to 1.46 million individuals living in and facing irregular situations. In 2020, the United Nations Special Rapporteur confirmed that Malaysia is one of the largest migrant-receiving countries in Southeast Asia and the number of migrant workers alone is between 3 and 6 million both documented and undocumented workers.¹²

Moreover, irregular situations are common among these migrant workers due to their status and therefore they face numerous legal and social challenges during their stay in the country. Often, their pleas are unheard, and they are treated poorly by the state and the local communities. On the other hand, civil society organisations (CSOs) have been the voices of these people and continue to fight for their rights and a better living environment in Malaysia. The fight for the rights of the refugees and migrant workers in Malaysia is an ongoing advocacy for CSOs. Furthermore, the Human Rights Commission of Malaysia (SUHAKAM) with support from the National Human Rights Institutions (NHRIs) continues to be the voice of these vulnerable groups through advocacy besides promoting and monitoring the effective implementation of international human rights standards at the national level.¹³ Additionally, it is timely to raise these concerns to meet the Malaysia Madani spirit which is to embrace every single person regardless of their status by promoting human rights and be more accountable.¹⁴

2. Research Method

The approach to this exploratory study is by employing a qualitative method with existing literature of primary and secondary sources. Since the work demonstrates the continuous deplorable livelihood of the vulnerable groups in Malaysia, particularly after the pandemic, therefore data was collected from the mainstream media, reports published by the state and civil society organisations, and statements and speeches made by the leaders and heads of organisations. However, the analysis of data will showcase the aeonian situation before and during the pandemic (2020-2021) and after that.

3. Discussion

The discussion is organised into two parts, COVID-19 and post-COVID-19 situations. This would enable a comprehensive understanding of the conditions of the marginalised groups in Malaysia particularly, the refugees and migrant workers. However, a prelude is offered to briefly explain the environment before the COVID-19 of these groups.

Due to their legal status as refugees and migrant workers, these groups are exposed to vulnerable environments such as exploitation, abuse from their employers and society as well as deportation by the enforcement agency. The lack of legal status further limits their access to healthcare services, education facilities, and legal protection in Malaysia. The Malaysian government, comparable to its Southeast Asian neighbours, is not a signatory to the

9 UNHCR, 2023.

10 IOM, "Migration Overview in Malaysia," 2022 <https://www.iom.int/sites/g/files/tmzbdl486/files/inline-files/infosheet-march-2022.pdf>

11 World Bank, "Malaysia estimating the number of foreign workers" (A report from the labour market data for monetary policy task) 2019 <https://documents1.worldbank.org/curated/en/953091562223517841/pdf/Malaysia-Estimating-the-Number-of-Foreign-Workers-A-Report-from-the-Labour-Market-Data-for-Monetary-Policy-Task.pdf>

12 ILO, "Observation (CEACR) - adopted 2022, published 111th ILC session (2023)," 2023.

13 Human Rights Commission of Malaysia (SUHAKAM), "A Year of Paradoxes: Human Rights Triumphs and Challenges in 2023," January 18, 2024, <https://suhakam.org.my/category/featured/#:~:text=SUHAKAM%20shall%20rally%20support%20from,necessary%20to%20promote%20this%20objective>

14 Siti Noraishah Mohd Arshad, "Adoption of UN Human Rights Council Resolution Entitled Promoting Human Rights and Sustainable Development Goals Through Transparent, Accountable," Ministry of Foreign Affairs, Malaysia, April 4, 2023, https://www.kln.gov.my/web/are_abu-dhabi/news-from-mission/-/blogs/adoption-of-un-human-rights-council-resolution-entitled-promoting-human-rights-and-sustainable-development-goals-through-transparent-accountable

1951 Refugee Convention or 1967 Protocol nonetheless, Malaysia is one of the largest countries in the region that hosts large numbers of refugees and asylum seekers.¹⁵ Since 1975, the UNHCR has been operating in Malaysia when Vietnamese refugees showed up on its shores escaping the Vietnam War.¹⁶ Therefore, the UNHCR for decades has been processing refugee status determination in Malaysia where a person is formally recognised as a refugee.

On the other hand, migrant workers in Malaysia are significant for the Malaysian economy particularly to meet the demands in crucial sectors such as agriculture, plantation, manufacturing, construction, and domestic work.¹⁷ These sectors are labour-intensive, dangerous, dirty and not attractive to the locals, therefore, the demand for foreign labourers is high in Malaysia. Despite their contributions to the progress of the country's economy,¹⁸ these migrant workers are exploited with minimum pay or none at all, deplorable working and unsanitary conditions, long working hours, and inadequate safety measures at the workplace.¹⁹ Moreover, they face discrimination, and some employers treat them inhumanely with abuse, beatings, and sexual harassment. The refugees and migrant workers in Malaysia have been in these reprehensible situations for decades. Nothing changed and the pandemic worsened their status and living in the country.

3.1. Malaysia and COVID-19

The year 2020 was a period of political instability in Malaysia witnessing the undemocratic change of government from the Pakatan Harapan coalition to Perikatan Nasional under the former Prime Minister Tan Sri Mahiaddin Yassin who subsequently resigned in August 2021. Replacing him as the next ninth Prime Minister was Dato Sri Ismail Sabri. Historically, Malaysia in less than four years since May 2018 had three different Prime Ministers and concerns over human rights issues have not improved despite the transitions. According to Amnesty International²⁰ and Human Rights Watch²¹ since the Perikatan Nasional government's takeover, more than ever human rights issues in Malaysia have been under serious threats. Responding to the COVID-19 pandemic in March 2020, the country was placed under a series of Movement Control Orders (MCOs) followed by double-standard treatment among the locals and migrants; inequitable vaccine access to migrant workers (documented and undocumented), refugees and asylum seekers; deportation of Myanmar nationals and the inhumane condition of detention centres. Local civil society organisations were also concerned over the mishandling of migrant workers, refugees, and asylum seekers by the relevant Malaysian enforcement agencies.

From the onset, the government responded effectively in managing the pandemic, and the measure to limit contact between people according to the World Health Organisation (WHO) was necessary to mitigate the transmission of COVID-19.²² However, WHO also cautioned that a lengthy lockdown would be detrimental to vulnerable groups especially individuals and families living in poverty, internally displaced people, migrants, and refugees. These disadvantaged groups often live in overcrowded and dearth places whilst depending on day-to-day work for survival. Undoubtedly, when COVID-19 struck, refugees and migrant workers found themselves disproportionately affected.

15 Max Walden, "Refugees may become victims of Malaysia's electoral politics," *Lowy Institute*, November 15, 2022, <https://www.lowyinstitute.org/the-interpreter/refugees-may-become-victims-malaysia-s-electoral-politics>

16 Dazmin Daud, Wardatul Hayat Adnan, Khelyn Ruran Jonathan, and Harrison Aris, "Policies and Issues relating to Vietnamese Boat People in Malaysia," *EDUCATUM Journal of Social Sciences* 8, no. 1 (2022): 83-91.

17 Amarjit Kaur, "Plantation Systems, Labour Regimes and the State in Malaysia, 1900–2012," *Journal of Agrarian Change* 14, no. 2 (2014): 190-213; Lee Hwok-Aun and Khor Yu Leng, "Counting migrant workers in Malaysia: A needlessly persisting conundrum," *ISEAS Perspective* 25 (2018): 1-11.

18 Iruthayaraj D. Pappusamy, "Migrant workers contribution towards the Malaysian economic transformation," In Asian Conference on Globalization and Labor Administration-Cross Border Labor Mobility, Social Security and Regional Integration-Philippines November, 2014: 19-21.

19 Amarjit Kaur, "Labour migration in Southeast Asia: Migration policies, labour exploitation and regulation," *Journal of the Asia Pacific Economy* 15, no. 1 (2010): 6-19; Sharmin Jahan Putul and Md Tuhiq Mia, "Exploitation of migrant workers in Malaysia and protection under domestic laws," In Proceedings of the International Law Conference (iN-LAC), 2020: 125-131; Andika Wahab, "Migrant Workers and Covid-19 Outbreak in Malaysia," Institute of Malaysian and International Studies, Universiti Kebangsaan Malaysia, 2020; Andika Wahab and Mashitah Hamidi, "COVID-19 Pandemic and the Changing Views of Mobility: The Case of Nepal–Malaysia Migration Corridor," *Comparative Migration Studies* 10, no. 1 (2022): 44.

20 Amnesty International, "Malaysia," 2020. <https://www.amnesty.org/en/location/asia-and-the-pacific/south-east-asia-and-the-pacific/malaysia/report-malaysia/>

21 Human Rights Watch, "Malaysia: Dangerous Backsliding on Rights," January 13, 2021, <https://www.hrw.org/news/2021/01/13/malaysia-dangerous-backsliding-rights>

22 WHO, "Coronavirus disease (COVID-19): Herd immunity, lockdowns and COVID-19," December 31, 2020, <https://www.who.int/news-room/q-a-detail/herd-immunity-lockdowns-and-COVID-19>

On numerous occasions during the MCOs, the enforcement authorities mishandled and treated the migrant workers unfairly. The employment of migrant workers is largely populated in the low-end services such as cleaners, gas station attendants, security guards, garbage collectors and other relevant services. The common narrative that illegal migrant workers face discrimination and threats from the authorities is largely due to various circumstances where their employers keep their passports preventing them from running away or subjecting them to forced labour. No doubt, there are genuine cases of foreign workers with illegal status due to them entering the country through illegal means. However, during the lockdowns in Malaysia, to curb the spread of the pandemic, all these migrant workers despite their status faced various discrimination and the illegal ones were detained in cramped and unhygienic detention centres.²³

Additionally, Amnesty International Malaysia pronounced the Malaysian government responded harshly towards migrant workers and refugees during the pandemic.²⁴ Amidst rising xenophobia, numerous immigration raids that involved arrests and detentions were steered in places with high migrant populations. Furthermore, Wahab²⁵ pointed out that since early May, the immigration raid announcements have driven migrant workers into hiding particularly the ones without a legal passport or working pass. As a result, most of these undocumented migrant workers employed in important sectors such as construction, manufacturing and plantation were absent from work fearing of detained. Moreover, this same group was also unable and unwilling to come forward to test for COVID-19 despite the government's persuasion. Subsequently, the government carried out its raids aggressively on migrant workers causing a surplus in the cramped detention centres risking them contracting the disease.

The International Labour Organisation in 2020²⁶ has also submitted a report detailing that approximately 6,467 migrant workers tested positive for COVID-19. This is because the migrant workers were at high risk as they continued to work before the first movement-controlled order (MCO) in March 2020 as implemented by the government. This resulted in locals as well as migrant workers losing their jobs and the Ministry of Human Resource (MOHR) however, advised employers to terminate their foreign workers first. During the outbreak, raids were targeted at undocumented migrants further distressing the situation and violating migrants' rights.²⁷ Over a period, detained undocumented migrants and refugees were surging filling up the already congested centres exacerbating the health and mental conditions of the migrants and refugees. In 2020 alone during the height of the pandemic, more than 2000 undocumented migrant workers were caught and held in crowded detention centres further exacerbating the spread of COVID-19.²⁸ The irresponsible action defeats the purpose of curbing the spread of the disease and jeopardising the health and mental being of the migrants. It made no sense for all the SOPs in place when all these people were detained in cramped detention centres.

There are 19 immigration detention centres in Malaysia and the conditions are inhumane and unhygienic according to numerous reports from local and international periodicals and NGOs.²⁹ Such inhumane conditions were revealed by immigrants who were deported back to their respective countries. In 2020, an outbreak occurred in immigration detention centres infecting over 600 individuals and the Malaysian government revealed in August of that year, from January to June, a total of 23 detainees including two children died in the detention centre.³⁰ In April 2023, the Home Ministry announced the detention centres held a total of 1,030 children and 679 of them were unaccompanied and separated from their caregivers and guardians.³¹ Unfortunately, according

23 Florida Sandanasamy, Marja Paavilainen, and Nilim Baruah, 2020, *COVID-19: Impact on migrant workers and country response in Malaysia*, International Labour Organisation, https://www.ilo.org/wcms5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_741512.pdf

24 Amnesty International, "Malaysia," 2020, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-east-asia-and-the-pacific/malaysia/report-malaysia/>

25 Andika Wahab, "Migrant Workers and Covid-19 Outbreak in Malaysia," Institute of Malaysian and International Studies, Universiti Kebangsaan Malaysia, 2020.

26 Sandanasamy et al., *COVID-19: Impact on migrant workers and country response in Malaysia*.

27 Radzi Razak, "Tenaganita condemns raids on undocumented migrants, refugees in Kuala Lumpur," *Malay Mail*, May 1, 2020, <https://www.malaymail.com/news/malaysia/2020/05/01/tenaganita-condemns-raids-on-undocumented-migrants-refugees-in-kuala-lumpur/1862190>

28 Emily Fishbein and Jaw Tu Hkwang, "Immigration detention centres become Malaysia coronavirus hotspot," *Aljazeera*, June 2, 2020, <https://www.aljazeera.com/news/2020/6/2/immigration-detention-centres-become-malaysia-coronavirus-hotspot>

29 Sebastian Strangio, "Report Reveals Inhumane Conditions in Malaysia's Immigration Detention Centers," *The Diplomat*, June 28, 2022, <https://thediplomat.com/2022/06/report-reveals-inhumane-conditions-in-malaysias-immigration-detention-centers/>

30 Amnesty International, "Act urgently to stop COVID-19 surge in detention centres," June 5, 2020, <https://www.amnesty.my/2020/06/05/act-urgently-to-stop-COVID-19-surge-in-detention-centres/>

31 Joshua Low, "Explainer I: "Don't Come Back, Soldiers Are Here": Children in Malaysia's Immigration Detention Centres," *New Naratif*, July 13, 2023, <https://newnaratif.com/children-in-malaysias-immigration-detention-centres/>

to Katrina Maliamauv, the Executive Director of Amnesty International Malaysia, the cause of these deaths was not investigated and she argued if the government is unwilling to take responsibility for these deaths, then how will the government be accountable to the public and ensure preventive measures to future deaths in the detention centres.³²

In another incident in April 2022, more than 500 Rohingya refugees including 137 children escaped from the Sungai Bakap detention centre and as a result, in a joint press statement, the Malaysian government was urged to investigate the causal situation that led to the desperation to escape.³³ Unfortunately, four adults and three children died in a traffic accident. According to the press statement, these Rohingya refugees were denied access to the UNHCR services and since 2019 the government has not allowed the UNHCR to process refugee status determination. These refugees who were seeking asylum in Malaysia were deprived of fundamental liberty and detained for more than two years faced mental health challenges and other illnesses due to abusive and unsanitary conditions in the detention centres.³⁴

On numerous occasions, civil society organisations have been vocal in pointing out the surge in hate sentiments toward the vulnerable people in the country. For instance, in May 2020, Felipe González Morales, the Special Rapporteur on the human rights of migrants nudged the Malaysian authorities to stop their raiding operations in locked-down areas to arrest migrants.³⁵ Prior to this report, these groups were at risk of discrimination and xenophobia as a result of individuals within the government, public administrators and political representatives' hate speeches in the media accusing these people of being the cause of increasing COVID-19 cases.³⁶ Then, when the vaccination plan was in discussion in February 2021, the Malaysian Trades Union Congress (MTUC) and the Malaysian Employers Federation (MEF) were debating over vaccine priority between Malaysians and migrant workers. The MTUC argued that the priority for the vaccination rollout should be Malaysians and migrant workers were considered insignificant. However, the MEF executive director Shamsuddin Bardan stated it was equally vital to vaccinate migrant workers at the same time since they have been categorised as high-risk in the spread of COVID-19.³⁷ He explained the rollout should be executed simultaneously and not at the end of the programme as such action may risk more local citizens from the migrant workers especially those from the important sectors such as the manufacturing and construction sectors. Providing vaccinations is a humanitarian step during a pandemic and no one should face discrimination hence, the government committee on vaccine supply gave assurance that the asylum-seekers registered with the UNHCR and undocumented migrants are included too.³⁸

3.1.1. Forced Deportation of Refugees and Migrant Workers

Human rights concerns in Malaysia are ongoing and very alarming when the governments make irresponsible decisions during the pandemic such as turning away the refugees and asylum seekers from Myanmar. Moreover, the Rohingya refugee crisis continued during the COVID-19 outbreak when the government failed to recognise these refugees and the grave situation they were escaping. Accordingly, refugees in Malaysia are considered to be illegal immigrants or undocumented migrants³⁹ and because of their non-recognition status, many refugees from Myanmar and other countries face discrimination and exploitation and have limited entitlements to education,

32 Amnesty International, "Government must be accountable for deaths in detention centres," August 7, 2020, <https://www.amnesty.my/2020/08/07/government-must-be-accountable-for-deaths-in-detention-centres/>

33 ASEAN Parliamentarians for Human Rights, Asia Pacific Refugee Rights Network, Asian Forum for Human Rights and Development, International Detention Coalition, "Joint Statement on Immigration Detention Policies & Practices in Malaysia," May 2, 2022, <https://reliefweb.int/report/malaysia/joint-statement-immigration-detention-policies-practices-malaysia>

34 "Malaysia pressed to probe deaths of 150 foreigners in detention," Al Jazeera, February 23, 2023, <https://www.aljazeera.com/news/2023/2/23/malaysia-pressed-to-probe-deaths-of-150-foreigners-in-detention>

35 Office of the United Nations High Commissioner for Human Rights (OHCHR). Malaysia / COVID-19, "Stop crackdown on migrants, journalists and civil society" – UN rights experts, May 21, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25900>

36 Human Rights Watch, "Joint Letter Re: End Violent Threats and Anti-Rohingya Campaign," May 11, 2020. <https://www.hrw.org/news/2020/05/11/joint-letter-re-end-violent-threats-and-anti-rohingya-campaign>

37 "Vaccinate locals first, says MTUC, but bosses group disagrees," *Free Malaysia Today*, February 13, 2021, <https://www.freemalaysiatoday.com/category/nation/2021/02/13/vaccinate-locals-first-says-mtuc-but-bosses-group-disagrees/>

38 Rozana Latiff, "Malaysia offers COVID-19 vaccinations to foreign residents, undocumented migrants," *Reuters*, February 11, 2021, <https://www.reuters.com/article/us-health-coronavirus-malaysia-vaccines-idUSKBN2AB0E1>

39 Malaysia Immigration Act, 1959/63; Tharani Loganathan, Zhen Ling Ong, Fikri Hassan, Zhie X. Chan, and Hazreen Abdul Majid, "Barriers and Facilitators to Education Access for Marginalised Non-Citizen Children in Malaysia: A Qualitative Study." *PloS One* 18, no. 6 (2023): e0286793.

healthcare, and formal employment.⁴⁰

Incidentally, in April 2020, the Malaysian Royal Navy forced the boats carrying the Rohingya refugees back to the sea when these vulnerable people were escaping persecution in Myanmar. Such an unwarranted incident has caused an uproar among international communities condemning Malaysia for violating the obligations of international law to provide access to asylum seekers and refugees.⁴¹ However, The Royal Malaysian Air Force justified its action of turning boats away as a preventive measure of COVID-19.⁴² The Rohingya refugee crisis is a humanitarian crisis and turning their boats away with hundreds onboard amid a global pandemic was a grave violation of human rights which is the right to live. These refugees were running away from Myanmar fearing persecution by seeking shelter in neighbouring countries such as Malaysia and pushing them back to the sea is another way of persecuting them. Accordingly, Amnesty International stressed that governing COVID-19 should not be an excuse to sacrifice the lives of Rohingya refugees.⁴³

Malaysia's stance on humanitarian rights goes back to 1975 when it sheltered the Indo-Chinese refugees despite being a non-ratified member of the 1951 Refugee Convention. However, Malaysia is no more showing its humanitarian gesture since the pandemic. The government took a step back in addressing its concern about the plights of the vulnerable Rohingya refugees, yet it was more anxious about the plights of the Palestinians in the conflict between Israel and Palestine.⁴⁴ Malaysia in a way demonstrate favouritism in its human rights cause.

Since the COVID-19 outbreak, the most vulnerable population in Malaysia has been the Rohingya refugees facing a critical situation due to mounting xenophobia.⁴⁵ Nearly 29,000 people in this vulnerable situation have been arrested for alleged violations of MCO which restricted movement during daytime from mid-March to early May in 2020. Evidently, in February 2021, despite the high court order to delay the return, the Malaysian immigration department forcefully deported a total of 1,086 Myanmar nationals to military-ruled Myanmar aware of the fact the ill fate of these deportees. Subsequently, Amnesty International Malaysia vehemently stated that the irresponsible action by the Malaysian government by sending the group back to Myanmar, where the military regime has seized power was a cruel act of violating the international principle of non-refoulement.⁴⁶ Consequently, the UN and the United States condemned the government's action.

3.1.2. Exploitation

The lockdowns during the pandemic negatively impacted migrant workers as many could not work during the MCO and migrants who continued working in essential services. In May 2020, the International Labour Organisation (ILO) submitted a report describing that in mid-April, the Malaysian Trades Union Congress (MTUC) revealed that the labour rights of migrant workers in Malaysia were violated. These migrant workers were terminated without notice and their wages were not paid, they lived in deplorable conditions, and employers forced them to work in nonessential jobs during the MCO. Furthermore, their employment status was unclear because they had limited contact with their employers.⁴⁷

However, in April 2020, the Ministry of Human Resources of Malaysia directed that layoffs of workers should prioritise foreign employees and since then, closures have been reported especially in the garment and apparel sector, causing unemployment among migrant workers, and pushing them further into uncertainties.⁴⁸ Amid the pandemic, the Malaysian government has neglected the essence of humanity and neglected the fundamental rights of the migrant workers in the country. Besides that, a whistleblower from Nepal revealed that Malaysia's leading manufacturing rubber glove company based in the state of Selangor, Top Glove, failed to comply with

40 Loganathan et al., "Barriers and Facilitators to Education Access for Marginalised Non-Citizen Children in Malaysia: A Qualitative Study."

41 National Human Rights Society (HAKAM), "Pushing back boat carrying refugees and scurrilous attack wrong," April 28, 2020, <https://hakam.org.my/wp/2020/04/28/pushing-back-boat-carrying-refugees-and-attack-of-ambassador-wrong-statement-dd-4-28-2020/>

42 "Let Rohingya refugees ashore, quarantine them for health checks," *New Straits Times*, April 22, 2020, <https://www.nst.com.my/opinion/letters/2020/04/586411/let-rohingya-refugees-ashore-quarantine-them-health-checks>

43 Amnesty International, "Act urgently to stop COVID-19 surge in detention centres," 2020.

44 "Malaysia will continue with Palestine agenda," *New Straits Times*, May 21, 2021, <https://www.nst.com.my/news/nation/2021/05/691713/malaysia-will-continue-palestine-agenda>

45 Emily Fishbein, "Fear and uncertainty for refugees in Malaysia as xenophobia escalates," *The New Humanitarian*, May 25, 2020, <https://www.thenewhumanitarian.org/news/2020/05/25/Malaysia-coronavirus-refugees-asylum-seekers-xenophobia>

46 "Malaysia deports 1,086 Myanmar nationals despite court order," *Al-Jazeera*, February 23, 2021, <https://www.aljazeera.com/news/2021/2/23/malaysia-deports-1200-people-to-myanmar>

47 Sandanasamy et al., *COVID-19: Impact on migrant workers and country response in Malaysia*.

48 Sandanasamy et al., *COVID-19: Impact on migrant workers and country response in Malaysia*.

COVID-19 safety measures during the MCO.⁴⁹ Top Glove denied such allegations by firmly assuring that since March, the factories have implemented safety measures and followed in all the locations. In the same report, a migrant worker activist exposed that it would be impossible for the factories to practice social distancing with a total of 30,000 migrant workers working to produce nearly 200 billion gloves each year for exportation. Over the years, local NGOs such as Tenaganita have expressed dissatisfaction with the Malaysian government's minimum efforts in addressing and mitigating labour exploitations on migrant workers.⁵⁰ Moreover, migrant workers often did not qualify for government assistance programs, leaving them without income or support. Additionally, fear of deportation discouraged many migrant workers from seeking medical help when they fell ill. Consequently, this not only put their lives at risk but also exacerbated the spread of the virus in their crowded living conditions.

3.1.3 Mistreatment

Another incident occurred in July 2020, when the Malaysian authorities questioned six journalists including five Australians from Al Jazeera based in Kuala Lumpur after broadcasting a documentary on migrant workers in Kuala Lumpur during the COVID-19 pandemic.⁵¹ The Malaysian police claimed that these journalists were investigated for sedition, defamation, and violation of the country's Communications and Multimedia Act. Unfortunately, the migrant worker who was interviewed for this documentary was deported to Bangladesh⁵² a clear indication of mistreatment. The 25-minute film documentary titled "Locked Up in Malaysia's Lockdown" on 3 July is about immigration raids conducted during the lockdown by the enforcement authorities on hiding migrants.⁵³ Since the arrest, consequently, these reporters received some abusive messages and death threats. Therefore, Al Jazeera defended by stating that prosecuting its journalists for doing their jobs is illiberal and not the action of a democracy that values free speech. Subsequently, COVID-19 further exposed the precarious legal status of these migrant workers in Malaysia and the media faced unreasonable allegations.

3.2 The Post-COVID-19 Situation

Since the resuming of the labour market in December 2021, it was reported that more than 300,000 of 450,000 approved Bangladeshi workers entered Malaysia and more to arrive.⁵⁴ With the opening of borders and the urgent need for migrant workers in the manufacturing, construction, services, plantation, agriculture, mining, and household services, the government signed an agreement with the Bangladeshi government on 19 December 2021 urging to reopen its labour market for migrant workers. Subsequently, this agreement materialised after imposing a ban for three-and-a-half years. Meanwhile, Malaysia's closest neighbour Indonesia has agreed to recommence the sending of their men and women on 1 August 2022. This agreement was reached between both governments after the Indonesian government froze the sending of their migrant workers to Malaysia due to unresolved issues regarding the rights in the plantation sector as well as the protection of Indonesian domestic workers.⁵⁵ Historically, both governments had a bilateral agreement on migrant workers' rights since 2006 and it expired in 2016. As a result, Indonesian migrant workers were unprotected from countless exploitation, especially domestic workers.⁵⁶ To resolve the matter, a new Memorandum of Understanding (MoU) was signed in April 2022 after some serious negotiations. A major concern regarding the effective monitoring of the recruitment process until the return of the Indonesian migrant workers will be regulated with the one-channel system.⁵⁷

49 Jason Thomas, "Worker accuses Top Glove of lax COVID-19 measures," *Free Malaysia Today*, April 18, 2020, <https://www.freemalaysiatoday.com/category/nation/2020/04/18/worker-accuses-top-glove-of-lax-COVID-19-measures/>

50 Razak, "Tenaganita condemns raids on undocumented migrants, refugees in Kuala Lumpur."

51 Amanda Meade and Rebecca Ratcliffe, "Police interrogate five Australian Al Jazeera journalists accused of sedition in Malaysia," *The Guardian*, July 10, 2020, <https://www.theguardian.com/media/2020/jul/10/police-interrogate-five-australian-al-jazeera-journalists-accused-of-sedition-in-malaysia>

52 "Malaysia arrests Bangladeshi migrant who criticised government on TV," *BBC*, July 25, 2020, <https://www.bbc.com/news/world-asia-53537312>

53 Al Jazeera, "Locked up in Malaysia's Lockdown," YouTube, July 3, 2020, video, 25:50, https://www.youtube.com/watch?v=zyl_xsdptel&t=5s

54 K. Parkaran, "Rate of Bangladeshi workers' entry into Malaysia worrying, says migrant rights activist Andy Hall," *Free Malaysia Today*, September 20, 2023, <https://www.freemalaysiatoday.com/category/nation/2023/09/20/rate-of-bangladeshi-workers-entry-into-malaysia-worrying-says-activist/>

55 "Indonesia agrees to lift freeze on sending migrant workers to Malaysia," *Reuters*, July 28, 2022, <https://www.reuters.com/world/asia-pacific/malaysia-says-indonesia-agrees-lift-freeze-sending-migrant-workers-2022-07-28/>

56 Nazalea Kusuma, "Protecting Indonesian Domestic Migrant Workers in Malaysia Through Renewed Agreement," *Green Network*, April 5, 2022, <https://greennetwork.asia/featured/protecting-indonesian-domestic-migrant-workers-in-malaysia-through-renewed-agreement/>

57 One-channel system was created upon an agreement between the Malaysian and the Indonesian governments to recruit Indonesian

As the world moves beyond the immediate crisis of the pandemic, refugees and migrant workers in Malaysia still find themselves in precarious situations due to uncertainties, lack of transparency, and poor governance. While the country began to recover economically, many refugees and migrant workers continued to struggle to live a stable life, employment, feel safe, access to healthcare, and education for their children. Furthermore, exploitation continues to persist in their working sectors and the working conditions have not improved.⁵⁸ Some of the situations faced by the marginalised groups are deprivation of basic needs, lack of representation, vulnerability to human trafficking and abuse as well as exploitation irrespective of forming a new structure such as the one-channel system and signing MoU.

3.2.1 Deprivation of Basic Needs – Rights to Education, Freedom, and Security

Refugees were still marginalised and faced uncertainties after the lifting of MCOs in Malaysia.⁵⁹ The sentiment of refugees in Malaysia as “illegal immigrants” is unceasing since under Malaysian law they are illegals and because of that status, they are deprived of decent jobs and their children have no access to formal education. Since 2017, Malaysia has housed a large number of stateless Rohingya refugees and other ethnic groups from Myanmar, and the children from these communities are deprived of any formal education in Malaysia.⁶⁰ One of the basic human rights is education which is enshrined in the 1989 Convention on the Rights of the Child and the 1951 Refugee Convention then again, Malaysia is not a party to the refugee convention.

Approximately there are 47,200 refugee children in Malaysia with limited or no access to proper education, healthcare, and other facilities because of not being recognised lawfully by the government.⁶¹ This is a serious human rights problem according to the Institute for Democracy and Economic Affairs (IDEAS) and Unicef Malaysia as the children have no access to these facilities making them more exposed to the impacts of COVID-19. Moreover, these refugees are unable to seek help for fear of being a victim of xenophobia and anti-refugee. Another disturbing matter based on observation by Human Rights Watch is that refugee issues are being politicised by some political leaders⁶² during elections. UNHCR has been accused as the pull factor for refugees choosing Malaysia as their destination⁶³ as the agency is the first point for new arrivals to secure an identity card or resettlement.⁶⁴ The coup in Myanmar has contributed to the high influx of refugees to Malaysia however, the resettlement to a third country has been low.⁶⁵

Consequently, the Malaysian government has viewed UNHCR as the motivating factor for refugees to apply for UNHCR cards and stay in the country. Therefore, the government intends to close the agency and take over the role of managing these issues without external intervention. However, a point to note is that in 2021, Malaysia was elected to the UN Human Rights Council for the 2022-2024 terms, therefore, the government needs to embody the principles of international human rights at home first then only abroad.⁶⁶ Hence, without a doubt, Malaysia’s international reputation will be damaged if the government shuts down the UNHCR. The way to go is by collaborating with UNHCR and other relevant bodies to improve the framework for managing the refugee situation in the country.

Migrant workers are also deprived of basic needs and continue to have limited access to essential facilities post-COVID-19 even though they are important to the economic development of Malaysia. The commencement

domestic workers to work in Malaysian households. One of the agreed points was the protection of the domestic workers from the Malaysian employers.

58 Wahab and Hamidi, “COVID-19 pandemic and the changing views of mobility: the case of Nepal–Malaysia migration corridor;” Wael Qarssifi, “As Malaysia prepares for an election, refugees watch warily,” *Al Jazeera*, November 15, 2022, <https://www.aljazeera.com/news/2022/11/15/as-malaysia-prepares-for-an-election-refugees-watch-warily>

59 Qarssifi, “As Malaysia prepares for an election, refugees watch warily.”

60 Loganathan et al., “Barriers and Facilitators to Education Access for Marginalised Non-Citizen Children in Malaysia: A Qualitative Study.”

61 “Over 47,000 refugee children have no access to education, says report,” *Free Malaysia Today*, September 22, 2022, <https://www.freemalaysiatoday.com/category/nation/2022/09/28/over-47000-refugee-children-have-no-access-to-education-says-report/>

62 Walden, “Refugees may become victims of Malaysia’s electoral politics;” Qarssifi, “As Malaysia prepares for an election, refugees watch warily.”

63 Walden, “Refugees may become victims of Malaysia’s electoral politics.”

64 Qarssifi, “As Malaysia prepares for an election, refugees watch warily;” Adib Povera and Arfa Yunus, “UNHCR office here to be shut down, role to be taken over by govt,” *New Straits Times*, October 7, 2022, <https://www.nst.com.my/news/nation/2022/10/838165/unhcr-office-here-be-shut-down-role-be-taken-over-govt>

65 Povera and Yunus, “UNHCR office here to be shut down, role to be taken over by govt.”

66 Zaid Malek, “National Security Council must drop proposal to close UNHCR office in Malaysia – LFL,” *Aliran*, September 12, 2022, <https://m.aliran.com/civil-society-voices/national-security-council-must-immediately-abandon-proposal-to-close-unhcr-office-in-malaysia-lfl>

of 2023 witnessed relaxed hiring rules for migrant workers by the Minister of Home Affairs, Saifuddin Nasution Ismail. He made a statement that it will be a temporary one in the first quarter of 2023.⁶⁷ This momentary decision was to boost the country's economy by 1 per cent of the Gross Domestic Product (GDP) in the first quarter of 2023 and this development can be achieved with the arrival of migrant workers in essential sectors. The government initiated this plan on 17 January and it is known as the Foreign Worker Employment Relaxation Plan (FWERP).

For this temporary plan to move forward, for the first quarter of 2023, employers with exemptions and conditional approval were allowed to employ migrant workers from 15 source countries based on the capabilities and needs of the employers and they are relieved from the prerequisites of employment qualifications and quota qualifications. Next, the Minister of Home Affairs paid a visit to the source countries alongside the Ministry of Human Resources representing the Regulatory Agency to discuss the safety and welfare of migrant workers in Malaysia. Then, agreements were reached to implement the PATI (unauthorised foreign immigrants or in the Malay language is *Pendatang Asing Tanpa Izin*) Recalibration Plan 2.0, for the Workforce Recalibration Programme until December 2023 by relaxing some conditions without neglecting national security.⁶⁸

As a result of the FWERP plan, within a month, a total of 2,000 applications involving 156,621 foreign workers were submitted and many are from countries such as Indonesia, Bangladesh, and Nepal which have given their commitment to ensuring the smooth entry of foreign workers whose employment had been approved.⁶⁹ However, two months later, the Human Resources Ministry warned the industry not to misuse the FWERP by simply bringing in foreign workers to Malaysia.⁷⁰ According to the Minister of Human Resources, Sivakumar, the FWERP was rolled out from January 17 to March 31 to cater to the five critical sectors namely farming, agriculture, manufacturing, construction, and services (restaurants) requiring migrant workers with a speedy approval of just three days to fulfil the needs of the industry.⁷¹ Hence, the government approved approximately 995,396 foreign worker employment permits in March 2023. However, this plan did not lay out any policies or framework to protect the migrant workers from exploitation, and abuse, or improve the living conditions as well as work conditions.⁷²

While approving a large number of jobs for these foreigners, the government neglected their welfare.⁷³ Local recruitment agencies lure Bangladeshi and Nepali workers to work in Genting Highlands in Malaysia only to be left without jobs, food and accommodation. There has to be a more meticulous system for monitoring the government's plans such as the FWERP among others to mitigate the misuse of the system by irresponsible agencies.

3.2.2 Lack of Representation and Transparency

Migrant workers are like orphans in Malaysia. This is because there is no representation of migrant workers in Malaysia even if they are legal and documented.⁷⁴ Therefore, they do not have any bargaining power for the government to consider their well-being by providing decent accommodation, accessible healthcare services, consultation, and education and this condition has been taken for granted for decades. According to Ng,⁷⁵ the management of migrant workers shifted from the Ministry of Home Affairs to the Ministry of Human

67 Arina Sofiah, "Malaysia temporarily eases rules on hiring foreign workers in Q1 2023," *Human Resources Online*, January 11, 2023, <https://www.humanresourcesonline.net/malaysia-temporarily-eases-rules-on-hiring-foreign-workers-in-q1-2023>

68 Arina, "Malaysia temporarily eases rules on hiring foreign workers in Q1 2023."

69 "Firms have applied for 156,621 foreign workers under new relaxation plan: Saifuddin," *The Vibes*, January 27, 2023, <https://www.thevibes.com/articles/news/84048/firms-have-applied-for-156621-foreign-workers-under-new-relaxation-plan-saifuddin>

70 Mohamed Basyir, "Do not simply submit numbers on foreign workers application, says Sivakumar," *New Straits Times*, March 7, 2023, <https://www.nst.com.my/news/nation/2023/03/886701/do-not-simply-submit-numbers-foreign-workers-application-says-sivakumar>

71 "Govt has approved nearly a million applications for foreign workers in five critical sectors," *The Star*, March 18, 2023, <https://www.thestar.com.my/news/nation/2023/03/18/govt-has-approved-nearly-a-million-applications-for-foreign-workers-in-five-critical-sectors>

72 Andy Hall, "Account of atypical modern-day slavery, forced labour and abuse against migrant workers from Bangladesh in Malaysia," *AndyJHall.org*, July 12, 2023, <https://andyjhall.org/2023/07/09/http-andyjhall-org-2023-07-09-12th-july-2023-excellent-3-part-account-of-atypical-modern-day-slavery-forced-labour-and-abuse-perpetrated-against-a-group-of-migrant-workers-from-bangladesh-in-malaysia/>; Joseph Paul, "Exploitation of migrant workers continues unabated in Malaysia," *Malaysiakini*, October 2, 2023, <https://m.malaysiakini.com/letters/681148>

73 S. Vinotha, "Jobless and out of food, 124 migrant workers file police report," *Malaysiakini*, June 29, 2023, <https://www.malaysiakini.com/news/670330>

74 Ng Yap Hwa, "A Labour Agenda for Malaysia," *New Mandala*, January 20, 2023, <https://www.newmandala.org/a-labour-agenda-for-malaysia/>

75 Ng, "A Labour Agenda for Malaysia."

Resources during the Perikatan Nasional administration and this was favoured by corporations and civil society organisations. However, the decision was reversed during Anwar Ibrahim's leadership and this is because migrant workers were seen as a matter of public security rather than labour administration and to maintain firmness in handling their cases. Also, there is another concerning issue of profiting from the recruitment of migrant workers and the involvement of political cronies, syndicates, and immigration officials which continue to persist within the system.

For instance, it was reported in April 2023 that since December 2002, Malaysia received the arrival of hundreds of workers from Bangladesh and Nepal and upon reaching they found out that they did not have any jobs.⁷⁶ These migrant workers paid RM20,000 (US\$4310) by taking loans to pay the middlemen recruitment fees and upon their arrival, their passports were taken away by the recruitment agents. Without their passports, these migrant workers are considered illegal and they are at high risk of forced labour and severe penury. With their passports being confiscated, they have limited freedom to move and look for jobs and their situation can become worse with debt bondage, poor living conditions, isolation, and depression.

Such situations occur due to a lack of transparency and poor governance within the ministry. Over the years, Malaysia was accused of employing forced labour in manufacturing and palm oil production⁷⁷ and consequently, this has caused the government to be downgraded to Tier 3 of the United States Annual Trafficking in Persons Report in 2022.⁷⁸ Migrant workers are vulnerable to human trafficking syndicates who work as recruitment agents deceiving foreigners from poor countries in the Asian region such as Bangladesh, Indonesia, Cambodia, Vietnam, India, and Nepal with false promises of employment in Malaysia. In a recent case, the Indonesian police rescued 123 locals from being trafficked to Malaysia and arrested eight suspects. Indonesia is known as one of the world's largest source countries for migrant workers and their people mainly go to Malaysia for employment.⁷⁹

3.2.3 Vulnerable to Human Trafficking

Human trafficking is an ongoing problem in Malaysia and the region. Migrant workers are easy targets for forced labour and debt bondage due to their socioeconomic situation in their home countries.⁸⁰ One of the impacts of the post-COVID-19 opening of the borders is the rapid movement of people across borders seeking jobs has built up the motivation for perpetrators to increase their modus operandi. Perpetrators will look for opportunities within the government's system to lure foreigners for recruitment. Hence, when the Malaysian government relaxed their rules by introducing the FWERP in early 2023 in hiring more foreign workers,⁸¹ human traffickers and their syndicates manipulated this system to deceive their potential victims by promising them jobs in Malaysia and charging them a hefty fee. By confiscating their passports, these migrants are susceptible and can be easily forced into hard jobs and undesired jobs as sex workers and exploited for profits. Many are bonded as well because of the accumulated debts comprising agent fees, employment fees and many more. As a result, they are bonded forever and their salaries are forfeited for these debts.

Refugees are also easy targets for human trafficking because of their illegal status and extreme vulnerability. Refugees for instance from Myanmar, the Rohingyas are smuggled into Malaysia first and then trafficked to work in various informal economic sectors in the country.⁸² They are willing to take any job for survival and are paid very poorly by the employers. Their illegal status in the country is an advantage for the employers hence these refugees face grave exploitation. Additionally, due to their vulnerabilities, Rohingya women and girls regardless of age are trafficked as brides to marry Rohingya or Bangladeshi men in Malaysia.⁸³ The brokers were the Rohingya men who arranged these marriages and these women travelled to Malaysia to marry the Rohingya

76 Charles Santiago, "Still no jobs after 1 month," *Free Malaysia Today*, July 10, 2023, <https://www.freemalaysiatoday.com/category/opinion/2023/07/10/still-no-jobs-after-1-month/>; "Malaysia probes cases of migrant workers left jobless, without passports," *ABC News*, April 20, 2023, <https://www.abc.net.au/news/2023-04-20/malaysia-probes-cases-of-migrant-workers-left-jobless/102249252>

77 Chu Mei Mei, "Malaysia says allegations of forced labour in palm plantations is 'old issue,'" *Reuters*, October 22, 2020, <https://www.reuters.com/article/fgv-ban/malaysia-says-allegations-of-forced-labour-in-palm-plantations-is-old-issue-idUSKBN277111>

78 Sheila Devi Michael, "Malaysia and its Efforts to Curb Human Trafficking," *The Diplomat*, September 6, 2022, <https://thediplomat.com/2022/09/malaysia-and-its-efforts-to-curb-human-trafficking/>

79 Pizaro Gozali Idrus, "Indonesian police arrest human trafficking suspects, rescue 123 workers headed to Malaysia," *Benar News*, June 9, 2023, <https://www.benarnews.org/english/news/indonesia-indonesia-arrests-human-trafficking-suspects-malaysia-06092023102852.html>

80 Hall, "Account of atypical modern-day slavery, forced labour and abuse against migrant workers from Bangladesh in Malaysia;" Abdul, "The Impact of Covid-19 on Migrants and Trafficked Persons in Malaysia."

81 Basyir, "Do not simply submit numbers on foreign workers application, says Sivakumar."

82 Andika Wahab, "The colours of exploitation: Smuggling of Rohingyas from Myanmar to Malaysia." *Akademika* 88, no. 1 (2018): 5-16.

83 Ahmed, "Rohingya Women, Girls Being Trafficked to Malaysia for Marriage."

men. This is because, the Rohingya men were unable to marry local women, neither Malaysian nor Rohingya women residing in Malaysia. Therefore, the post-pandemic situation is not all rosy for the refugees particularly women as they continue to be exploited for various reasons. Even vulnerable groups seize opportunities in their community during the pandemic.

3.2.4 Abuse and Exploitation

Abuse and exploitation of migrant workers continue to exist even after the pandemic. During the pandemic, domestic migrant workers were slandered with abuse and some even faced death.⁸⁴ Incidentally, one of the Indonesian migrant protection agencies stated that since 2020 almost 2,000 Indonesian migrant workers have died because of abuse, accidents, or unexpected illness while working in Malaysia. According to Sood,⁸⁵ in July 2022, the Indonesian government halted deploying workers to Malaysia when it found out that the Malaysian immigration agencies using an online recruitment system to hire domestic workers which was linked to allegations of trafficking and forced labour. However, a month later the freeze was lifted. Additionally, the Coalition of Sovereign Migrant Workers (KBMB) in Indonesia reported that in 2022, the Malaysian immigration authorities took responsibility for the deaths of 149 Indonesian migrant workers subjected to brutal conditions at migrant detention depots for nearly two years. Subsequently, in April 2023, 154 vulnerable Indonesian migrant workers detained in various Malaysian Immigration Detention Centres and in the shelter of the Indonesian Embassy in Kuala Lumpur were repatriated by the Indonesian Ministry of Foreign Affairs. Abuse and exploitation of migrant workers without a doubt continue to tarnish the image of Malaysia⁸⁶ if the government does not respond effectively. Moreover, it does not fit well with the Malaysia Madani (Civil Malaysia) core values.

4. Conclusion

Malaysia during the COVID-19 pandemic has fared quite well but in handling the crisis, the government raised concerns and uncertainties concerning the rights of refugees and migrant workers. No doubt that the government responded effectively in its efforts to curb the widespread of infectious COVID-19 by controlling the movement of people through the implementation of MCOs and other measures but there have been double standards in dealing with some of these cases. In addition, refugees and migrant workers were treated badly and raids on undocumented migrants carried on despite objections from the civil society organisations. The government further violated the fundamental human rights declaration – the right to live of the Rohingya refugees when it decided to push their boats back to the sea with hundreds onboard. Knowing the critical situation in Myanmar since the coup, Myanmar citizens faced forced deportation. The government should not be blind to the pleas of one community and advocate for another. The concept of Malaysia Madani should embrace every single person and not discriminate selectively. Therefore, this study exposed that the precarious situation of refugees and migrant workers in Malaysia existed long before the COVID-19 pandemic and continues to persist. However, the crisis has exacerbated their vulnerabilities, leaving them in a state of continuous uncertainty and precarity. To address this issue effectively, Malaysia needs to adopt comprehensive policies that provide legal protection, access to healthcare and education, and pathways to economic stability for these marginalised communities. The government should work closely with civil society organisations in determining the rights of the vulnerable people in the country. With sound policies and strategies in place, they should not remain in papers. These policies and strategies should do the walk and not just talk. Only through such measures can Malaysia ensure a more inclusive and equitable post-pandemic future for all.

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84 Amy Sood, “‘Desperate’ Indonesians risk abuse, death in Malaysia by taking jobs from illegal recruiters,” *South China Morning Post*, August 23, 2023, <https://www.scmp.com/week-asia/people/article/3231532/desperate-indonesians-risk-abuse-death-malaysia-taking-jobs-illegal-recruiters>

85 Sood, “‘Desperate’ Indonesians risk abuse, death in Malaysia by taking jobs from illegal recruiters.”

86 JD Lovrenclear, “Abuse of migrant workers will tarnish Malaysia’s image,” *Aliran*, May 8, 2023, <https://aliran.com/thinking-allowed-online/abuse-of-migrant-workers-will-tarnish-malaysias-image>

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