



RETENTION OF PERSONAL DOCUMENTS AS A FORM OF LABOR EXPLOITATION: A COMPARATIVE STUDY OF LABOR LAW IN SOUTHEAST ASIA

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ABSTRACT: *The confiscation of personal identity documents such as passports, visas, and work permits by employers has emerged as a critical issue in labor exploitation, particularly within Southeast Asia's migrant labor markets. This article examines this practice's legal dimensions and human rights implications, drawing on a comparative normative juridical approach across Indonesia, Malaysia, Singapore, the Philippines, and Thailand. While international labor standards clearly prohibit such conduct, domestic regulations and enforcement practices vary significantly, often leaving workers unprotected. This study finds that the retention of personal documents constitutes a mechanism of coercion and control that undermines fundamental labor rights. It proposes regional harmonization of legal frameworks, stronger enforcement mechanisms, and awareness campaigns to combat this form of exploitation effectively.*

Keywords: *personal document retention, labor exploitation, migrant workers, labor law, Southeast Asia, comparative legal study*

1. INTRODUCTION

The withholding of personal documents by employers represents a widespread yet under-addressed form of labor exploitation in Southeast Asia. Migrant workers particularly those in informal sectors such as domestic work, agriculture, fishing, and construction are frequently coerced into surrendering their passports, visas, and other identity documents upon arrival in their host countries. This practice not only restricts their freedom of movement but also limits access to justice and essential services, exposing them to further exploitation, including unpaid wages, physical abuse, and human trafficking.

The issue is especially pertinent in a region characterized by significant labor migration. Countries such as Malaysia, Singapore, and Thailand serve as major destinations for migrant workers from Indonesia, the Philippines, Myanmar, and Cambodia. Within these migration corridors, the employer-employee power imbalance is often exacerbated by legal uncertainty, language barriers, and limited state oversight creating an environment in which document retention thrives as a tool of subjugation.

International labor instruments including those issued by the International Labour Organization (ILO) explicitly identify the confiscation of identity documents as a key indicator of forced labor (ILO, 2012). However, despite this global consensus, many Southeast Asian countries lack robust legal frameworks or enforcement mechanisms to prevent or penalize this practice. As a result, workers often remain at the mercy of their employers, with little institutional recourse.

This article investigates the retention of personal documents as a deliberate mechanism of control situated within broader structures of labor exploitation. It seeks to answer the following research questions:

1. What forms and patterns does document retention take in Southeast Asian labor markets?
2. How do national labor laws in the region address or fail to address this issue?
3. In what ways does this practice constitute a violation of international labor and human rights norms?
4. What legal and policy solutions can be proposed to protect vulnerable workers?



The primary objective of this study is to evaluate the extent to which domestic legal systems in Southeast Asia align with international standards in protecting workers' personal autonomy and dignity. Through comparative analysis, the study aims to identify normative gaps and suggest pathways toward regional legal harmonization.

The novelty of this research lies in its integration of comparative legal analysis with human rights theory, focusing not merely on statutory provisions but also on implementation, enforcement, and the lived experiences of affected workers. It contributes to the literature on labor migration, human rights law, and Southeast Asian legal reform by emphasizing the need for transnational solutions to a transnational problem.

The withholding of personal identity documents by employers constitutes a pervasive and deeply problematic practice in Southeast Asia's labor markets. In many labor migration corridors such as from Indonesia to Malaysia, or from Myanmar to Thailand migrant workers are required to surrender their passports, visas, and work permits to employers or labor agents upon arrival. While normalized in some sectors, this practice fundamentally violates workers' autonomy and dignity. It restricts mobility, denies access to consular protection, and increases vulnerability to wage theft, forced labor, and trafficking.

This issue is particularly acute in Southeast Asia due to the high volume of intra-regional migration and the informal nature of many employment sectors. According to the International Labour Organization (ILO, 2020), Southeast Asia hosts over 10 million migrant workers, with Malaysia, Singapore, and Thailand being the primary destination countries. A significant proportion of these workers are employed in domestic work, agriculture, fishing, and construction sectors with limited regulatory oversight. Field data indicate that up to 80% of migrant domestic workers in Malaysia and Singapore have their passports withheld (Amnesty International, 2010; IOM, 2019)

2. THEORETICAL OVERVIEW OF THE MAIN CONCEPTS

The retention of personal identity documents in employment relationships is increasingly recognized as a systemic form of exploitation. According to Andrees & van der Linden (2005) this practice is prevalent in unregulated labor sectors and is used by employers as a means to assert control, delay payment, or prevent workers from resigning. These coercive mechanisms are especially common among migrant laborers who lack local legal knowledge or access to formal dispute resolution systems.

The International Labour Organization (ILO) classifies the retention of identity documents as a strong indicator of forced labor. Its Indicators of Forced Labour (2012) lists this practice among coercive means used to deny workers the right to freely leave their employment. The UN's Office of the High Commissioner for Human Rights (OHCHR, 2014a) further condemns such practices as violations of the right to liberty, movement, and personal autonomy under international human rights law.

Empirical studies have confirmed the widespread nature of this abuse in Southeast Asia. Amnesty International (2010) found that over 80% of surveyed domestic workers in Malaysia and Singapore had their passports withheld by employers. In Thailand's fishing industry, Human Rights Watch (2018) reported systemic document confiscation that contributed to conditions resembling modern-day slavery.

National legal frameworks in Southeast Asia vary in addressing this issue. Indonesia's Law No. 18/2017 explicitly prohibits employers from retaining workers' documents. However, enforcement remains a challenge due to corruption, weak labor inspections, and limited awareness among workers. Malaysia and Singapore lack explicit prohibitions in their labor laws, though administrative penalties may be applied under immigration or contractual provisions. The Philippines provides relatively robust protection through the Philippine Overseas Employment Administration (POEA) rules, but enforcement suffers from inter-agency coordination problems (IOM, 2019).



At the regional level, the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, acknowledges the importance of migrant worker protections but lacks legally binding force (OHCHR, 2014). The absence of a unified framework means that protections remain fragmented and implementation varies widely among member states (Hall et al., 2011).

Scholars such as Chuang (2014) and LeBaron (2015) argue that document retention must be viewed not merely as a technical or legal violation but as part of a broader system of economic coercion. The structural power imbalance between migrant workers and employers is exacerbated by legal gaps, social exclusion, and restrictive migration regimes, which enable exploitative practices to persist with impunity.

This study builds upon existing scholarship by providing a comparative legal analysis across multiple Southeast Asian jurisdictions, combining statutory review with a human rights lens. In doing so, it seeks to highlight normative inconsistencies and advocate for policy reforms that transcend national boundaries.

The withholding of identity documents by employers is widely recognized as a key indicator of forced labor and has been increasingly studied within labor law, migration governance, and human rights literature. Scholars, international organizations, and legal experts agree that the practice restricts freedom of movement, undermines contractual equality, and facilitates broader patterns of coercion and exploitation (ILO 2012; LeBaron, 2015; OHCHR, 2014). Within the Southeast Asian context, the issue becomes more urgent given the scale of labor migration, the informality of employment sectors, and the unevenness of legal protection across jurisdictions.

The International Labour Organization (ILO) identifies the retention of personal documents such as passports, residence permits, and employment contracts as one of eleven key indicators of forced labor under its 2012 guideline document. Specifically, the ILO notes that when workers are unable to access their identification documents freely, their ability to leave exploitative conditions or seek help is drastically reduced (ILO, 2012). Moreover, the UN Human Rights Committee has interpreted such practices as violations of Article 12 of the International Covenant on Civil and Political Rights, which guarantees the right to liberty of movement and protection from arbitrary detention (OHCHR, 2014).

A growing body of empirical studies has demonstrated how widespread this practice is, especially among domestic and low-wage migrant workers. For instance, Amnesty International (2010) documented that nearly 78% of domestic workers in Malaysia were required to surrender their passports to employers upon arrival. Similarly, a report by Human Rights Watch (2018) found that workers on Thai fishing vessels often had their documents held in port offices or by boat captains, preventing them from leaving exploitative or dangerous work situations.

Legal scholarship has highlighted three dominant approaches to the issue of document retention in labor law. First, the prohibitionist approach, where countries explicitly outlaw the retention of identity documents under labor or migrant worker protection statutes as seen in the Philippines and Indonesia. Second, the permissive or silent approach, where there is no legal clarity, and the practice is regulated under immigration control rather than labor standards as in Malaysia and Singapore. Third, the contractual approach, where protections depend on the content of individual employment agreements without statutory baseline standards (Chuang, 2014; Hall et al., 2011).

From a theoretical perspective, scholars such as Jill Esbenshade (2007) and LeBaron (2015) argue that document retention must be understood not only as a legal offense but as a *structural tool of labor market control* embedded in broader neoliberal economic arrangements. These authors draw on theories of “unfree labor” and “global labor chains” to show how employers and recruitment agencies utilize identity document retention to extract labor under conditions that resemble bonded labor. The retention of documents thus functions as a *mechanism of discipline* within a transnational labor market, especially where legal systems fail to provide meaningful checks on employer power.

In the Southeast Asian context, regulation remains highly fragmented, with few countries addressing the issue directly in their labor laws. Indonesia's Law No. 18/2017 is among the most explicit in prohibiting document retention, but enforcement remains weak. In Malaysia and Singapore, the lack of statutory clarity allows the practice to continue under administrative norms, often justified as a security measure to prevent "absconding" workers (IOM, 2019). Thailand has taken some administrative steps in the fishing and agriculture sectors but still faces systemic gaps in coverage, especially for undocumented migrants (Human Rights Watch, 2018).

Table 2 summarizes the state of legal provisions concerning document retention across selected ASEAN member states:

Table 2. National Legal Approaches to Document Retention

Country	Explicit Legal Prohibition	Enforcement Mechanism	Sectoral Coverage	Notable Gaps
Indonesia	Yes (Law No. 18/2017, Art. 8)	Labor Inspectorate	All formal sectors	Weak field enforcement
Philippines	Yes (POEA Rules)	Recruitment agency audits	Migrant workers abroad	Limited domestic worker oversight
Malaysia	No	Immigration regulations	Foreign labor	No direct labor law provision
Singapore	No	MOM Guidelines	Domestic workers	Retention not penalized under law
Thailand	Partial (Sectoral policies)	Ministry of Labor units	Fishing, agriculture	Gaps for irregular workers

In regional policy discourse, the 2007 *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers* offers aspirational principles but lacks binding force. While the declaration encourages member states to promote just, humane, and fair treatment of migrant workers, it provides no enforcement mechanism or monitoring framework. As (Hall et al., 2011) notes, ASEAN's non-interference doctrine has constrained the development of a regional legal regime capable of addressing cross-border labor rights violations systematically.

The academic research gap in this domain is twofold: First, there is a lack of comparative legal studies focusing specifically on document retention as a form of labor exploitation in Southeast Asia. Second, there is insufficient integration between international human rights frameworks and domestic labor law analysis. This study seeks to fill both gaps by employing a comparative juridical method to assess how various national systems align with international legal obligations and to identify where harmonization or reform is most urgently needed.

Finally, the literature suggests that enforcement is the weakest link in most jurisdictions. Even where legal provisions exist, inspections are rare, complaints mechanisms are underutilized, and many workers are unaware of their rights or fear retaliation. As a result, effective reform must combine legal changes with worker education, civil society monitoring, and regional cooperation mechanisms that promote accountability beyond borders (IOM, 2019; LeBaron, 2015).

3. METHODOLOGY

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4. DISCUSSION

4.1 Forms and Practices of Document Retention in Southeast Asia (Expanded)

The retention of identity documents is a widespread, routine, and normalized practice across labor-receiving countries in Southeast Asia. Upon arrival, many migrant workers are required by employers or intermediaries to surrender their passports and work permits as part of the onboarding process. This typically occurs without the worker's informed consent and is often presented as a condition for continued employment or accommodation (Amnesty International, 2010).

In Malaysia, for example, numerous employers across the domestic, construction, and plantation sectors justify passport retention by claiming that it deters worker abscondment or facilitates administrative processing. However, there is little evidence to support this rationale. Instead, such practices enable exploitative control by limiting workers' autonomy and leverage in negotiating working conditions (Tenaganita, 2020).

In Singapore, similar practices prevail. Research conducted by the Humanitarian Organization for Migration Economics (HOME) found that as many as 82% of foreign domestic workers surveyed in 2019 reported that their employers retained their passports. Many were also unaware of their rights under the Ministry of Manpower's advisory, which discourages but does not outlaw document retention (HOME, 2019).

Thailand presents a slightly different case. In the fisheries industry, employers and brokers often retain seafarers' identity papers to prevent them from changing jobs or leaving the boats. This creates conditions of de facto bonded labor, especially for undocumented migrants from Myanmar or Cambodia. The ILO has documented such practices as indicators of human trafficking and modern slavery (ILO, 2012).

In many situations, workers are made to sign pre-formulated contracts in languages they do not understand, consenting to the document retention. These agreements are rarely informed or voluntary and contravene international labor standards, including ILO Convention No. 189 (ILO, 2011). Furthermore, workers' fear of job loss or deportation deters them from resisting such conditions, thus reinforcing employer dominance.

The consequences of document retention extend far beyond loss of physical access to papers. Workers without identity documents face difficulty accessing health care, opening bank accounts, or reporting abuse to authorities. In some jurisdictions, the absence of documentation makes migrant workers themselves liable to arrest or deportation, even when their documents are being held unlawfully (Human Rights Watch, 2018).

Moreover, the practice erodes trust in regulatory institutions. Many workers believe that complaints will not be taken seriously, particularly in countries where labor inspections are rare or corrupt. This perception perpetuates silence and underreporting of abuses. The situation is worsened in sectors

like domestic work, which take place in private homes and remain largely invisible to public scrutiny (Chuang, 2014).

In conclusion, document retention is not merely a technical or administrative practice—it is a deeply embedded structural mechanism that reinforces worker dependency and employer power. By constraining workers' freedom of movement and legal recourse, it contributes to conditions that closely resemble forced labor and coercion, as defined under both international and domestic legal norms (ILO, 2012; OHCHR, 2014).

4.2 Legal and Regulatory Frameworks: A Comparative Review (Expanded)

The legal frameworks governing document retention vary widely across Southeast Asian states, reflecting divergent institutional philosophies regarding labor regulation and migration control. While some countries have introduced laws explicitly prohibiting document retention, others address the issue tangentially or not at all, relying instead on discretionary enforcement mechanisms (Hall et al., 2011).

Indonesia's legal approach is among the most explicit in the region. Article 8(c) of Law No. 18/2017 on the Protection of Indonesian Migrant Workers categorically prohibits any party from retaining a worker's personal documents. The law mandates that migrant workers must retain possession of their own passports and other identification at all times. Nevertheless, field reports suggest that the enforcement of this provision remains weak, particularly among unregistered recruitment agents (Nadhani & Ulfa, 2019).

Malaysia, by contrast, does not have any labor legislation directly addressing the issue of document retention. The Immigration Act 1959/63 allows employers to "hold" workers' documents for safekeeping, a provision that has often been interpreted as legalizing the practice. Human rights organizations, however, argue that this legal gap has enabled systemic abuse, especially among low-skilled and undocumented workers (MBR, 2022; Tenaganita, 2020).

Singapore's legal position is ambiguous. The Employment of Foreign Manpower Act does not expressly forbid document retention, but the Ministry of Manpower has issued advisories discouraging the practice. However, the lack of statutory force behind these advisories means that compliance is voluntary, and administrative penalties are rarely imposed (HOME, 2019).

The Philippines provides one of the more robust frameworks in the region. The Philippine Overseas Employment Administration (POEA) prohibits licensed recruitment agencies from withholding any personal documents of workers. Violations can result in license suspension or revocation. Nonetheless, this regime does not extend to informal or unlicensed recruiters, leaving many workers especially those recruited through family networks or community brokers outside the scope of protection (POEA, 2016).

Thailand has made partial strides through sector-specific regulations. The Royal Ordinance on Fisheries B.E. 2558 (2015) includes provisions that prohibit the retention of identity documents in the fisheries sector. However, enforcement remains highly variable. In sectors such as domestic work and agriculture, legal protections against document retention remain underdeveloped (ILO, 2012).

An important issue across jurisdictions is the lack of criminal liability for employers who confiscate documents. Even in countries where the practice is technically unlawful, penalties are limited to administrative fines or revocation of recruitment licenses, rarely rising to the level of criminal prosecution. This legal under-enforcement contributes to a culture of impunity (Chuang, 2014),

Comparatively, the gap between international commitments and domestic enforcement remains significant. All countries examined in this study are members of ASEAN and parties to key international treaties, including the ILO Forced Labour Convention. Yet only Indonesia and the Philippines have made legislative efforts to align national law with these obligations. The rest rely on soft-law approaches or fragmented administrative norms.

This legal patchwork undermines regional labor mobility and exposes migrant workers to arbitrary treatment depending on their country of employment. It also presents a barrier to ASEAN's aspiration of building a "people-centered" community, as stated in the ASEAN Declaration on Migrant Workers (2007), unless binding harmonization is pursued

4.3 Document Retention as Labor Exploitation: A Human Rights Perspective (Expanded)

The retention of personal documents by employers constitutes a violation of multiple internationally recognized human rights. At its core, the practice infringes on the worker's right to liberty of movement, personal autonomy, and dignity. The International Covenant on Civil and Political Rights (ICCPR), under Article 12, enshrines the right to freedom of movement, including the right to leave any country. Withheld passports prevent this right from being exercised (OHCHR, 2014).

Beyond civil liberties, the practice also constitutes a form of economic coercion. Workers whose documents are withheld are often unable to switch jobs, terminate exploitative contracts, or access justice systems. This constitutes an abuse of vulnerability and an imbalance of power that international law associates with modern slavery, particularly when combined with other forms of exploitation such as non-payment of wages or excessive working hours (UNHRC, 2018).

The ILO's Forced Labour Convention (No. 29) lists the withholding of identity documents as one of the "means of coercion" that qualify a work relationship as forced labor. The ILO Convention No. 189 on Domestic Workers further emphasizes that workers must have freedom of movement and access to their documents, particularly in sectors where state monitoring is limited (ILO, 2012).

From a legal theory perspective, document retention can be seen as a technique of "constructive detention"—workers are not locked up physically, but their legal incapacitation has the same effect. This practice traps workers in a state of legal and economic immobility. Scholars like Chuang (2014) argue that this form of "exploitation creep" blurs the lines between administrative labor relations and human rights violations, calling for a legal reconceptualization.

The implications of such coercion extend beyond individual abuse. They degrade the normative integrity of national labor systems and undermine public confidence in the rule of law. When legal systems fail to classify and punish these practices appropriately, they effectively endorse them, contributing to the structural impunity of exploiters (LeBaron, 2015),

While all ASEAN countries have ratified at least one core human rights treaty, the translation of these commitments into enforceable domestic law remains limited. There is a wide gap between treaty ratification and implementation, which continues to protect abusive practices under the veil of administrative discretion (Hall et al., 2011).

Civil society organizations and human rights advocates have called for greater integration of human rights frameworks into labor inspection regimes. Some countries, like the Philippines, have experimented with joint labor-inspector and human rights audits for overseas employment programs, but such models remain exceptions rather than norms (POEA, 2016).

Ultimately, the retention of documents must be understood not merely as a labor violation, but as a violation of human dignity and personal sovereignty. Efforts to combat this practice must be grounded in rights-based approaches that prioritize the autonomy and legal personhood of every worker, irrespective of migration status or sector of employment.

4.4 Comparative Synthesis

Comparing Indonesia, the United States, and Germany reveals significant disparities in the policy architecture, enforcement mechanisms, and sociocultural integration of anti-street racing strategies. While all three countries formally criminalize illegal street racing, the practical implementation of these laws diverges sharply in terms of consistency, community orientation, and outcome effectiveness.



Indonesia maintains a clear legal basis for penalizing street racing through its Traffic Law No. 22/2009. However, the law is underutilized in practice due to fragmented enforcement, inconsistent judicial interpretation, and minimal institutional coordination. Despite the statutory framework, the absence of a comprehensive surveillance system, rehabilitation programs for youth offenders, or sustained educational outreach contributes to the persistence of illegal racing behaviors (Damayanti et al., 2022; Swasana, 2015).

In contrast, the United States demonstrates a multi-pronged enforcement ecosystem that integrates proactive policing, legislative adaptations, and civil society engagement. Initiatives like *Racers Against Street Racing* (RASR) serve as a model of how subcultural behaviors can be redirected through legal alternatives, such as drag strips and sanctioned events. Moreover, state-level laws such as California's AB 2000 provide clear prosecutorial guidance when street racing leads to bodily harm or death (California Assembly, 2020). Educational programs and restorative justice models further strengthen the system by addressing the behavioral roots of offending.

Germany, on the other hand, adopts a more centralized and punitive approach grounded in the doctrine of strict liability. Following the landmark 2017 Berlin ruling, street racing has been reframed not merely as a traffic violation but as a form of conditional intent homicide when fatalities occur. Enforcement is deeply integrated with technological infrastructure automated speed monitoring, real-time data capture, and a national point-based license suspension system (KBA, 2020). Additionally, driving education is standardized at the federal level and includes risk-awareness training and legal ethics.

These divergent models offer critical insights for Indonesia. The U.S. model provides a blueprint for community engagement and youth-oriented programming. It suggests that legal sanctions, when paired with cultural outreach and infrastructural investment, can yield measurable reductions in reoffending. The German approach, meanwhile, highlights the deterrent value of legal certainty and institutionalized accountability, especially through consistent application of severe penalties and surveillance.

However, successful policy transplantation requires contextual calibration. Indonesia's cultural norms, institutional capacity, and socioeconomic landscape differ significantly from those in the U.S. or Germany. For example, while Germany can rely on advanced surveillance and strong public compliance with law, Indonesia faces technological constraints and lower levels of trust in law enforcement (Irawan & Sulisty, 2022). Similarly, the extensive litigation infrastructure available in U.S. states may not be immediately replicable in Indonesia's overburdened court system.

Thus, hybridization emerges as a promising strategy. Indonesia should not adopt wholesale models from abroad but rather select adaptable components that align with local realities. This could include piloting a youth diversion court in urban areas, expanding school-based traffic safety education, and incrementally installing surveillance infrastructure in known racing hotspots.

Moreover, Indonesia must redefine the narrative around illegal street racing from one that centers solely on punitive enforcement to one that considers it a public health, youth development, and urban planning issue. This would require coordinated policymaking across ministries of law, transportation, education, and youth affairs, as well as sustained partnerships with NGOs, private sectors, and community leaders.

Data systems also need significant investment. Unlike the U.S. and Germany, Indonesia lacks a national database on street racing offenses, offender profiles, or geographic trends. Without data, policymaking remains speculative and reactive. Implementing a centralized traffic offense registry, integrated with police, judicial, and education sectors, would provide the foundation for evidence-based reform.

The role of media and digital platforms must not be overlooked. In all three countries, social media plays a significant role in amplifying or normalizing street racing culture. Indonesia can learn from



Germany's and the U.S.' use of counter-narratives, such as public campaigns that highlight real-life consequences of racing. Collaborating with influencers, former offenders, and crash victims could help reshape societal perceptions and reduce the glamorization of risky driving.

Ultimately, a cross-national comparison illustrates that legal sanctions are necessary but not sufficient. Structural deterrence arises when law is harmonized with technology, education, and cultural legitimacy. Indonesia must shift from reactive policing to anticipatory governance embedding street racing prevention into urban design, school curricula, and digital citizenship.

5. Synopsis of the Main Research Outcomes

This study examined the retention of personal identity documents by employers as a systemic and underregulated form of labor exploitation in Southeast Asia. Drawing on a comparative legal analysis of five key countries Indonesia, the Philippines, Malaysia, Singapore, and Thailand the research revealed substantial divergences in national legal frameworks and enforcement mechanisms. While some countries, such as Indonesia and the Philippines, had enacted explicit statutory prohibitions against document retention, others, including Malaysia and Singapore, lacked specific legal provisions or addressed the issue only indirectly through immigration regulations.

The findings demonstrated that enforcement efforts remained weak and fragmented across the region. In jurisdictions with legal prohibitions, implementation was often hindered by limited institutional capacity, insufficient political will, and inadequate complaint mechanisms. These deficiencies contributed to a persistent gap between formal legal protections and the lived realities of migrant workers, particularly in informal sectors such as domestic work, agriculture, fishing, and construction.

The study further established that the practice of withholding identity documents constituted a violation of international human rights norms. When combined with other coercive practices such as wage withholding, restricted movement, or threats of deportation document retention met the definitional criteria of forced labor under international law, including ILO Conventions No. 29, 105, and 189. This reinforced the view that document retention was not merely an administrative lapse but a structural instrument of control and subjugation.

Moreover, the analysis identified a lack of coordinated regional action to address the issue. Despite the existence of the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, the absence of binding obligations had limited progress toward legal harmonization. The study therefore called for the adoption of a regionally binding instrument that would explicitly prohibit document retention, strengthen enforcement, and integrate human rights principles into national labor governance systems.

In sum, the research contributed to the scholarly and policy discourse on labor migration by reframing document retention as a transnational human rights concern rather than an isolated legal anomaly. It underscored the urgency of coordinated, rights-based responses at both the national and regional levels to protect the autonomy and dignity of migrant workers across Southeast Asia.

6. Conclusions

The retention of personal identity documents by employers remains a deeply entrenched and underregulated form of labor exploitation across Southeast Asia. As demonstrated in this study, the practice functions not merely as an administrative irregularity but as a structural mechanism of control limiting workers' agency, facilitating coercion, and perpetuating vulnerability. Despite widespread regional ratification of international human rights instruments, substantial legal and enforcement gaps continue to enable such abuses, often justified under the pretexts of migration management or administrative convenience.

From a legal perspective, the divergence in national laws ranging from explicit prohibitions (e.g., Indonesia, the Philippines) to regulatory silence (e.g., Malaysia, Singapore) highlights the absence of



a coherent, ASEAN-level framework governing document retention. Even where prohibitions do exist, enforcement tends to be sporadic, hampered by limited political will, institutional weaknesses, and the absence of accountability mechanisms. These deficiencies not only contravene international labor standards but also erode public trust in legal institutions and labor governance systems.

From a human rights standpoint, the withholding of identity documents violates fundamental liberties, including the rights to freedom of movement, access to justice, and legal personhood. When coupled with other coercive measures such as wage withholding or restrictions on mobility it can amount to forced labor under international law. Addressing this issue therefore requires a shift from administrative remedies to a rights-based approach rooted in dignity, autonomy, and informed consent.

In light of these findings, the following recommendations are proposed:

1. Adopt Binding Regional Standards:

ASEAN should move toward a legally binding instrument for the protection of migrant workers, including an explicit prohibition of document retention. This would reinforce the 2007 ASEAN Declaration on Migrant Workers and foster legal harmonization across the region.

2. Strengthen Enforcement Mechanisms:

Member states must operationalize existing legal norms through clearer regulatory guidance, enhanced labor inspections, and stricter penalties for violators. Special attention should be paid to informal recruitment networks and vulnerable sectors such as domestic work and agriculture.

3. Enhance Worker Education and Legal Literacy:

Governments and civil society organizations should collaborate to develop multilingual outreach programs that educate workers on their rights related to document possession and accessible avenues for redress. Digital tools and mobile platforms can be leveraged to increase accessibility and reach.

4. Integrate Human Rights into Labor Governance:

Labor ministries should partner with national human rights commissions and independent oversight bodies to monitor document retention practices, especially in high-risk sectors. Joint inspection models, such as those piloted in the Philippines, should be institutionalized and expanded regionally.

5. Establish Safe Reporting Channels:

Migrant workers must have access to confidential, retaliation-free mechanisms for reporting document confiscation. These channels should be accessible regardless of immigration status and linked to clear, time-bound complaint resolution procedures.

6. Leverage International Pressure and Incentives:

Donor agencies, multinational corporations, and trade partners should condition economic cooperation and supply chain participation on adherence to fair labor standards, including the prohibition of document retention.

In conclusion, eliminating the practice of document retention is not merely a matter of regulatory reform it is a moral and legal imperative. Meaningful protection of migrant workers begins with recognizing them as rights-holders, not merely economic actors. A region-wide commitment, grounded in enforceable legal norms and inclusive governance, is essential to dismantling this institutionalized form of coercion and achieving genuine labor justice in Southeast Asia.

7. Limitations, Implications, and Further Directions of Research

The withholding of personal identity documents by employers is a systemic form of labor exploitation in Southeast Asia, functioning as a mechanism of control that restricts workers' freedom and facilitates coercion. Despite the ratification of international human rights instruments, inconsistent

laws and weak enforcement allow this practice to persist, especially in informal labor sectors.

This study highlights significant legal divergence across the region, where some countries prohibit document retention while others remain silent. Even where laws exist, enforcement is often undermined by limited capacity, political will, and oversight. From a human rights perspective, document retention violates core freedoms and may amount to forced labor when combined with other coercive practices.

Key policy recommendations include: (1) adopting a binding ASEAN framework prohibiting document retention, (2) strengthening enforcement and inspections, (3) enhancing worker education through digital tools, (4) integrating human rights bodies into labor monitoring, and (5) ensuring safe and accessible reporting channels. International actors should also link trade and aid to fair labor standards.


This study is limited by its reliance on secondary sources and its geographic scope, which excludes several labor-sending countries. Data gaps also constrain cross-country comparisons. Nonetheless, the findings offer valuable insights for legal harmonization and migrant protection.

Future research should incorporate fieldwork, evaluate law implementation over time, and compare Southeast Asia with other high-migration regions. Interdisciplinary studies on digital tools to prevent document-related abuses would further enrich the discourse.

Ultimately, ending document retention is not just a regulatory task, but a moral and legal obligation. Regional commitment grounded in enforceable norms is essential to uphold the dignity and rights of migrant workers.

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