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RESEARCH LETTER



Rights awareness and COVID-19 tourism job losses: perspectives from Malaysia

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ABSTRACT

This qualitative study applies the labour market segmentation theory to examine tourism job losses through the indirect causes of pay cuts, unpaid leave and the take-up of side hustle – accepted by the employees partly from loyalty, camaraderie and empathy. Where the prolonged hardship from these measures leads to resignations, employers gain from the avoidance of termination benefits mandated by a retrenchment exercise. The losses occasioned to the worker include the non-eligibility for state-funded wage subsidy and foregone termination benefits. Through a legal analysis of COVID-19 job losses, the study posits that tourism workers' lack of rights awareness contributed to the voluntary acceptance of these lawful but detrimental strategies.

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KEYWORDS

COVID-19; job losses; labour market segmentation theory; retrenchment; rights awareness; termination benefits

Introduction

This paper examines job losses in Malaysia's tourism industry during the coronavirus pandemic (COVID-19), to determine whether such termination occurred through formal retrenchment or other indirect causes. This is important because the mode of termination influences compensation entitlement – an area that deserves attention, seeing that Malaysia's tourism industry employs 3.6 million people out of a workforce of 15 million (MAH, 2021). Moreover, existing studies seek to assess the level of susceptibility of various tourism and hospitality employees to job loss (Avidiu & Nayyar, 2020); analyse hotel employees' perceived job insecurity during the pandemic (Singh et al., 2021); and examine industry responses to COVID-19 (Do et al., 2021). By contrast, this study adopts a socio-legal perspective to examine the relationship between rights awareness and job loss in the hotel industry. The basic premise is that legal determinants (laws, policies and government responses) influence employment (Wachter, 2020).

Where a tourism business remains operational, the appropriate mass termination strategy is retrenchment, or in lieu of this, a voluntary separation scheme (Thavarajah & Low, 2014). The study found that during COVID-19, many tourism job losses occurred due to indirect causes. Many employers did not institute a retrenchment exercise, which would entail the payment of termination benefits. Instead, they implemented pay-cuts and unpaid leave that their workers voluntarily agreed to. It was the prolonged implications of these measures that led to resignations, which was cost-saving to the employers (compared to a retrenchment exercise).

Conceptualized through the labour market segmentation theory, we surmise that the workers' lack of rights awareness contributed to the deployment of these lawful but detrimental strategies.

The gap addressed is the lack of tourism studies that examine how legal determinants influence employment due to the conventional divide between legal doctrinal studies and tourism and hospitality research, although there are tourism governance studies that bridge this gulf (Gan et al., 2019). By framing the discussion on COVID-19 hospitality job loss in terms of rights awareness, this paper paves the way for more socio-legal studies in tourism employment.

Literature review

Retrenchment and rights awareness

In Malaysia, a retrenchment exercise undertaken with valid economic reasons and conducted in good faith constitutes a 'just cause or excuse' for termination pursuant to the Industrial Relations Act 1967. Some Malaysian employers have resorted to retrenchment in response to the economic pressure of COVID-19, despite the government's furlough scheme (Husin et al., 2021). Genuine redundancy occurs where a worker's job ceases to exist, e.g. due to organizational restructuring, obsolete technologies or financial hardship (Thavarajah & Low, 2014). A retrenchment carried out in bad faith can be legally challenged, yet the pursuit of legal recourse is influenced by rights awareness (Chan, 2015; Singh et al., 2014).

Rights awareness might also influence the workers' response to the employer's requests. In 2020, the Malaysian Bar Council issued a circular to make clear that employers should not compel their employees to take annual/unpaid leave or accept a pay-cut (Malaysian Bar Council, 2020). Whether hotel workers succumb to such pressure might depend on their rights awareness.

Retrenched employees are entitled to termination benefits, as prescribed under the Employment (Termination and Lay-Off Benefits) Regulations 1980. Moreover, private sector workers who became unemployed due to (among other reasons) closure of business or retrenchment might be eligible for benefits under the employment insurance system (EIS, n.d.). Arguably, a worker's awareness of such entitlement influences whether they seek such benefits.

The labour market segmentation theory

In a dual labour market, workers are divided into primary and secondary segments, depending on their skills (Edwards, 1979; Piore, 1984). The theory of labour market segmentation posits that human capital influences vulnerability to job loss. In the primary segment, the jobs are more capital-intensive and require greater productivity. Employment is characteristically full-time and more stable, with high wages, because of the skills and technological competence involved. By contrast, the jobs in the secondary segment are low-skill and labour-intensive, with lower productivity and limited automation. Such jobs attract low wages and are likely to be temporary, seasonal and can be easily terminated.

The dual labour market is highly visible in the tourism and hospitality industry because, despite technological innovations, many frontline jobs are still labour-intensive. Such workers are likely to be engaged on a casual/ temporary basis through fixed-term contracts, as opposed to being hired under standard employment contracts. Hence, type-of-contract segmentation further differentiates the two categories of workers (Polavieja, 2003).

We explore two research questions: (1) What are the main causes of COVID-19 job loss among secondary segment tourism employees? and (2) Why are secondary segment tourism employees vulnerable to indirect causes of COVID-19 job loss? To theorize the findings using the labour market segmentation theory, we adopt the typology in Figure 1. Tourism workers are depicted as a mix of primary segment and secondary segment. The focus is on the secondary segment, which, according to the theory, possesses lower human capital. The lack of human capital arguably suggests lower education attainment, social background, age, gender and access to information – all the factors that influence rights awareness (Chan, 2015; Singh et al., 2014). Rights awareness is significant in the

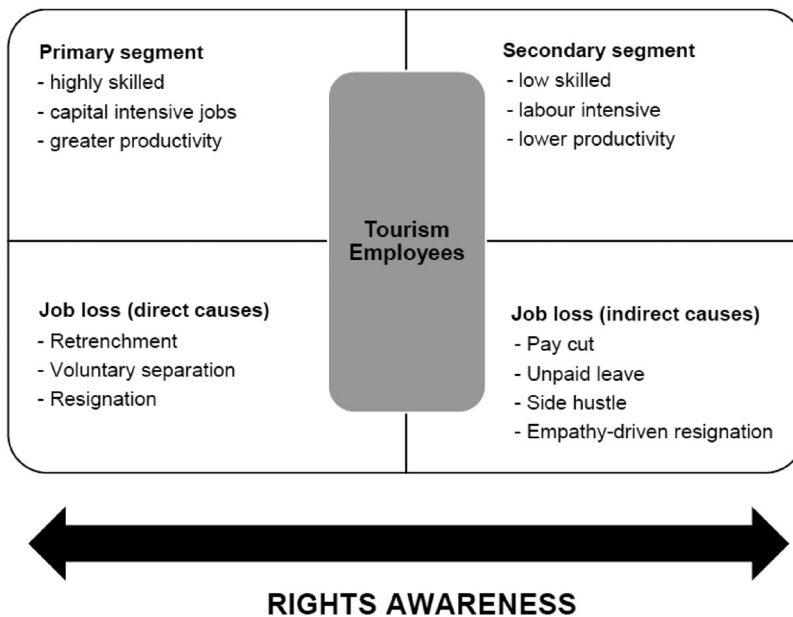


Figure 1. Typology for the study.

typology because employment regulations influence the quality and conditions of work and the intersection of the labour demand and supply curves (Tham & Fudge, 2019).

Methodology

This qualitative study is guided by the interpretivist paradigm that emphasizes the participants' construction or experience of the subject matter (Guba & Lincoln, 1994). Between May and October 2022, we interviewed 33 participants using a semi-structured questionnaire (see Table 1), after getting ethics approval from Monash University for Project 32735. Through purposive sampling, we identified business owners, senior managers, leaders of tourism and hotel associations and government officials. Later, snowball sampling became prevalent where existing participants recommended potential industry peers. Apart from one face-to-face interview (in compliance with social distancing guidelines), all interviews were conducted online via Zoom. To appraise the participants of the study, the research statement and consent acknowledgement were circulated in advance, with online reminders before an interview session commenced. The participants' verbal consents were recorded. On average, an interview took 40–60 minutes. English was the medium used, except for two participants whose responses were in Bahasa Malaysia, the national language.

Data triangulation was addressed through the participants' sectoral (hotel, travel companies, event management, transportation) and geographical (Peninsula Malaysia and East Malaysia) diversity; as well as the inclusion of state and non-state actors. This is further strengthened by investigator triangulation, whereby each interview session (except two instances) was conducted by two or more investigators, so that the interview instrument is approached through different perspectives to elicit rich, in-depth responses. Theory triangulation occurred in tandem with data analysis and the process was repeated when we reviewed the data and typology as per the reviewers' feedback.

We applied thematic data analysis, using Strauss and Corbin's (1998) memoing technique to uncover themes and sub-themes. Familiarization with the dataset from the transcription stage enabled us to fine-tune the questionnaire, identify a thematic framework, map and interpret the findings.

Table 1. Respondents' background.

Respondent	Background
R1	Homestay (owner)
R2	Island tourism operator (owner)
R3	Travel agency (owner)
R4	Ecotourism tour company and social enterprise (owner)
R5	Travel agency (owner)
R6	Tourism government agency (senior director)
R7	Travel agency (owner)
R8	Tour guide (independent)
R9	Travel agency (owner)
R10	Travel agency (owner)
R11	Travel lifestyle online intermediary (country director)
R12	Travel agency, hotel (owner)
R13	Homestay and other budget accommodation (manager)
R14	National travel operators' association (secretary), travel agency (owner)
R15	Event management agency (founder)
R16	National travel operators' association (committee member), travel agency (owner)
R17	Hotel (senior revenue manager)
R18	Adventure airline (senior manager)
R19	Hotel (senior manager)
R20	National tourism transportation association (vice-president), tourism transportation provider
R21	Hotel (general manager)
R22	Event management company (founder)
R23	Event management company (founder)
R24	Travel agency (owner)
R25	National hotel association (president), budget accommodation (owner)
R26	Ecotourism tour company (owner)
R27	Government-linked national tourism council (council member)
R28	Government-linked national travel technology association (chairperson)
R29	Hotel (general manager), affiliate cruise company (ad hoc manager)
R30	Sports event management company (founder)
R31	Hotel (general manager)
R32	Hotel (general manager)
R33	Restaurant and club operator, vice-president of a national association for food and beverage operators

Findings and discussion

The discussion is referenced to [Table 2](#), which juxtaposes the themes with the modes of termination. To begin with, very few organizations could maintain their entire workforce. Only a federal tourism agency (R6), two hotels serving the oil and gas industry (R17 and R19), a cash-rich hotel (R31), an event organizer that avoided project commencement (R30) and an international online travel intermediary (R11) did not resort to termination (see Theme 1). However, consistent with the labour market segmentation theory, many participants terminated their seasonal, part-time or fixed-term contract workers (see Theme 2). Where the full-time workers were concerned, terminations should be pursuant to retrenchment exercises. But, as seen in Theme 3, only six employers adopted this formal measure. The findings indicate that job losses occurred primarily from indirect causes.

First, almost all participants implemented pay-cuts (see sub-Theme 4(a)). Although Malaysian employment law prohibits compulsory pay-cuts, voluntary acceptance of a new contractual arrangement is permissible. In some cases, employees accepted pay-cuts due to their sense of loyalty, camaraderie and empathy (see Theme 5), especially where the senior management accepted substantial pay-cuts too. But ultimately, prolonged loss of income prompted many tourism workers to resign. If these workers were formally retrenched from the outset, they would have obtained termination benefits mandated by law (unless the employer is bankrupt/ under liquidation and is unable to pay any compensation altogether).

Second, most participants required their employees to go on unpaid leave (see sub-Theme 4(b)). While compulsory unpaid leave is unlawful, voluntary unpaid leave is permissible. Some participants encouraged their workers to take up 'side hustle' (R4), which could eventually lead to alternative

Table 2. Modes of termination.

Respondent	Themes and sub-themes							
	1. No termination or indirect measures	2. Termination of fixed term contracts and part-time staff	3. Formal retrenchment	4. Indirect measures			5. Staff acceptance of indirect measures due to loyalty, camaraderie and empathy	6. Eventual voluntary resignation from the acceptance of indirect measures
				(a) Pay-cut	(b) Unpaid leave	(c) Side hustle allowed		
R1		✓						
R2		✓			✓	✓	✓	✓
R3		✓	✓					
R4		✓		✓	✓	✓	✓	✓
R5				✓				✓
R6	✓							
R7		✓		✓	✓	✓	✓	✓
R8		✓						
R9		✓	✓					
R10		✓		✓		✓	✓	✓
R11	✓							
R12		✓	✓					
R13		✓			✓			
R14		✓	✓	✓	✓			✓
R15		✓						
R16		✓		✓	✓	✓	✓	✓
R17	✓							
R18		✓		✓	✓			✓
R19	✓							
R20		✓		✓	✓			
R21		✓		✓	✓			✓
R22		✓		✓	✓			✓
R23		✓		✓	✓		✓	✓
R24		✓				✓		✓
R25		✓		✓	✓			✓
R26		✓		✓	✓			✓
R27		✓	✓	✓	✓			✓
R28		✓		✓	✓			✓
R29		✓	✓	✓	✓			✓
R30	✓							
R31	✓							
R32		✓			✓			✓
R33		✓		✓	✓		✓	✓

employment (see sub-Theme 4(c)). Tourism workers who agreed to take unpaid leave were disadvantaged because: (i) they could not enjoy the state-funded wage subsidy that was premised on active duty; and (ii) the financial impact of prolonged unpaid leave is not dissimilar from being unemployed. In fact, the former fares worse because their 'employed' status barred them from applying for benefits pursuant to the employment insurance system.

Third, pay-cuts and unpaid leave led to resignations (see Theme 6). While this might not be the desired consequence, the employers gained from the avoidance of compensation-tied retrenchment exercise. In some cases, voluntary resignations were the outcome of the participants' appeal for their workers' empathy for their financial plight. Such empathy-driven resignations also saved employers from the payment of termination benefits.

Conclusion

To address Research Question 1: What are the main causes of COVID-19 job loss among secondary segment tourism employees? The findings indicate that many tourism workers were not formally retrenched during COVID-19. Rather, their termination occurred through a combination of indirect causes, due to their employers' adoption of measures that are not unlawful if acceded to voluntarily. However, there are highly disadvantageous to tourism workers, whose opportunity costs include the loss of income from government wage subsidy, termination benefits from formal retrenchment, and unemployment benefits (barred to them because of the 'actively employed' status). It is probable that these measures were not intended to induce resignations, and that the main purpose is cost reduction. Nevertheless, the findings suggest an undercurrent of informal workplace relations between tourism workers and their employers, hinged on loyalty, camaraderie and empathy that (though commendable) could undermine workers' interests during an economic crisis.

Turning to Research Question 2: Why are secondary segment tourism employees vulnerable to indirect causes of COVID-19 job loss? The findings reflect the labour market segmentation theory whereby tourism workers with fixed-term contracts or part-time status are more vulnerable to job loss. The study confirms that the lower human capital of frontline workers results in disadvantageous contractual status (part-time, seasonal, fixed-term), hence increases their employment vulnerability. However, this study presents a new vantage point: from the premise of the secondary segment's lower human capital, we posit that the attributes that caused them to fall under the secondary segment (lower education attainment, social background, age, gender, etc.) increase the likelihood of low rights awareness. Arguably, rights awareness might influence tourism workers' response towards the employer's proposition of indirect measures in several ways: they might question the legality of the indirect measures, or weigh the relative benefits of remaining employed against the eligibility under the employment insurance system, or they might pursue retrenchment benefits where none were offered. The lack of rights awareness significantly forecloses such options. The theoretical contribution lies in identifying tourism workers' rights awareness as a likely influencing factor – a shift from the conventional focus on contractual status and work designations.

The practical implication is the exploration of ways to improve the rights awareness of tourism workers. Notably, there should be laws that mandate the dissemination of labour rights by the employers. Clear legal criteria for redundancy and statutory termination benefits are important to lessen the impact of retrenchment. Industrial relations law and the culture of unionism in a particular country might influence the effectiveness of trade unions in a retrenchment exercise.

The main limitation of the study is its employer-centricity, largely due to the on-going parent project that focuses on industry perceptions. Conversely, this limitation presents opportunities for future research. The findings can facilitate the development of quantitative hypotheses that assess the correlation between tourism workers' rights awareness and their employment experiences during COVID-19. In particular, the quantitative approach facilitates in-depth analysis of personal or social factors that influence voluntary resignation. Another limitation lies in the period

studied, namely the tourism job loss phenomenon between March 2020 to May 2022. A longitudinal approach encompassing the various stages of COVID-19 (pre-event/ prodromal / recovery) would facilitate the analysis of disaster stages and the formulation of pre-emptive strategies for future crises. Lastly, the findings are not generalizable because the regulatory frameworks may differ between countries. Further, the findings of qualitative studies are not necessarily generalizable (Creswell & Creswell, 2017).

Disclosure statement

No potential conflict of interest was reported by the authors.

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