

CHALLENGES AND PROBLEMS IN LABOUR LAW FROM THE PERSPECTIVES OF INDONESIA AND MALAYSIA

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ABSTRACT

This study provides a critical comparative study of the labour laws of Indonesia and Malaysia, two of the most prosperous economies in Southeast Asia, but with different legal systems due to their respective political, socio-economic and colonial legacies. A wide range of topics were discussed, covering almost all major issues related to the laws affecting practise, namely historical development and legal reforms, current challenges related to wage inequality, migrant workers and enforcement of labour protection. A qualitative comparative analysis was conducted based on primary legal documents, including the Indonesian Omnibus Law on Job Creation and the Malaysian Employment Act 1955 as amended, supplemented by secondary sources such as policy papers and academic articles. The findings suggest that decentralisation in Indonesia leads to uneven enforcement across regions, while Malaysia's centralised administration falls short in protecting migrant workers. In both countries, economic growth clashes with labour rights, with Indonesia struggling with a largely informal sector and Malaysia with a very high dependence on migrant workers. The discussion emphasises the fact that while recent legislative reforms have taken place, weak enforcement and problematic dispute resolution reflect the persistent problems. The study concludes by outlining policy implications that support strengthening enforcement mechanisms, formalising the informal sector and adhering to international labour standards to promote good employment practises. The results obtained with such a methodology contribute to the discourse on labour law and provide insights for policy makers, academics and other stakeholders concerned with the dynamics of the labour market in Southeast Asia.

Introduction

Labour laws are important to regulate labour relations between employers and employees, which could benefit the protection of workers' rights and ensure a stable labour market (Asri et al., 2023; Low, 2021; Omar et al., 2020). In Southeast Asia, Indonesia and Malaysia have introduced far-reaching frameworks to attempt to regulate labour relations in parallel with the demands of economic progress. Nevertheless, labour law issues still pose significant hurdles in the two countries because they are formulated and enforced within a variety of socio-economic structures and political-cultural orders (Asmorojati et al., 2022; Hierofani, 2021; Uchiyama et al., 2022).

Labour legislation in Indonesia and Malaysia has a common colonial legacy. However, the development of their labour laws after independence has evolved structurally in different ways (D'Cruz, 2008; Nayagam, 2013; Tjandra, 2016). The changes in Indonesian labour laws are also heavily influenced by Indonesia's transition from the period of rule under Suharto's New Order to a democratic system of government from 1998 onwards (Kususiyanah, A., et al., 2024; Ford & Sirait, 2016; Ford, 2003; Tjandra, 2016). Law No. 13 of 2003 on Manpower provides the legal framework for labour in Indonesia and regulates various aspects of employment such as employment contracts, wages, working hours, and occupational health and safety (Manning & Roesad, 2007; Perdana, 2021). The development of labour law in Malaysia illustrates how British colonialism introduced a system of legal and administrative structures that still exists in labour law today (Dunkley, 1982; Low, 2020; Nadzri, 2012). Malaysian primary legislation, the Employment Act 1955, essentially regulates the employment relationship between employer and employee, whether local or foreign, terms and conditions of employment, wage regulations, dispute resolution and more (Hassan et al., 2023; Mustaffa et al., 2021).

There are many reasons to understand the labour regulatory frameworks in both Indonesia and Malaysia. Both countries are important contributors to the ASEAN economy as their manufacturing, agriculture and service industries have a major impact on regional economic development. The cross-border dimensions of their labour laws are highlighted by their dependence on labour migration, with Indonesia being a major source and Malaysia an important destination. Another aspect to consider is the ongoing efforts of both countries to modernise their labour laws to meet new global economic challenges. Both countries have taken measures to reform their labour legislation. Indonesia enacted the Omnibus Law on Job Creation (Law No. 11 of 2020) in 2020 and Malaysia amended its Employment Act of 1955 in 2022. However, these reforms are highly controversial. Critics insist that they dangerously water down labour protections in order to attract foreign investment.

This study was conducted with three main objectives, namely: to provide a comparative critical overview of the labour law frameworks of Indonesian and Malaysian jurisdictions in terms of historical development, structural differences and recent reforms; to discuss the main challenges and problems faced by both countries in relation to labour issues; and to recommend possible reforms or improvements to the effectiveness of the respective labour laws of these two countries.

In this regard, this study contributes to the knowledge base on labour market dynamics in Southeast Asia, which is important not only for policy makers but also for academics and other stakeholders interested in the future of labour in this region. This comparative approach therefore seeks to highlight not only the similarities and differences in the respective Indonesian and Malaysian laws and institutions, but also the socio-economic and political factors that influence their application and effectiveness. Taking into account these socio-economic and political factors, including international labour standards such as those developed by the International Labour Organisation, and an assessment of each country's conformity or deviation from these international standards, the study will be conducted.

Literature Review

Labour laws are enacted to keep the power between employers and employees in a certain balance, which is determined by wages, working conditions and legal provisions. For these reasons, Indonesia and Malaysia are two economies with the most contrasting labour law frameworks, shaped by their economic goals, social structures and political contexts in Southeast Asia.

Overview of Labour Law Frameworks

To date, labour law frameworks with different characteristics have emerged in Indonesia and Malaysia based on various historical, economic and social factors in the respective legal systems.

The legal framework for labour relations in Indonesia is primarily governed by Law No. 13 of 2003 on Manpower, which sets out the three basic rights of workers: Minimum wage, working hours and labour protection (Manning & Roesad, 2007; Perdana, 2021). According to Edwards (1996) and Richardson (1958), the Indonesian system relies solely on collective bargaining and the role of trade unions. This can be explained by the historical context when strong labour movements emerged during the colony and gained further momentum after independence. The government also enacted the Omnibus Law on Job Creation in 2020, which served to simplify regulations in order to increase investment and employment opportunities, but has been one of the most controversial laws since its enactment due to concerns over worker protection (Mahy, 2022; Marpaung et al., 2023).

In contrast, Malaysian labour law is dictated by the Employment Act 1955, which regulates employee rights such as employment contracts, working hours and wages, among others (Hassan et al., 2023; Mustafa et al., 2021). The Malaysian framework is more centralised as the government plays an important role in controlling labour relations. Although there are trade unions, it is felt that the legal environment is less conducive than in Indonesia (Low, 2020). With recent amendments to the Employment Act of 2022, the government has attempted to address concerns about worker protection and compliance with international labour standards, although critics argue that these amendments do little to address systemic problems in the labour market (Uchiyama et al., 2022; United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), 2023).

Both Indonesia and Malaysia face major challenges in their labour markets, which are shaped by their legal frameworks. Indeed, minimum wage laws vary greatly between regions in Indonesia, resulting in differences that affect workers' livelihoods. These differences have been addressed in recent and older literature in works such as Mukhlis, M. M., et al., (2024), Hamid (2020), Hill (2021), Hohberg and Lay (2015) and Rama (2001). Enforcement mechanisms tend to be weak and the majority of workers are unaware of their rights (Endrawati, 2022; Mahasin et al., 2020). Although the Malaysian government has set a national minimum wage, its implementation is extremely problematic, especially in industries that are highly dependent on migrant workers (Arisman & Jaya, 2021; Aziz & Basir, 2021; Dewanto, 2024).

Both countries have economic structures that rely on the contribution of migrant labour, but the protection afforded to them is weak and inauthentic. In particular, there are international concerns about the abuse and exploitation of migrant workers in many sectors in Malaysia (Michael, 2023; Mohamad & Hassim, 2024; Wasti et al., 2024). In Indonesia, informal workers also make up a high percentage of the workforce and are deprived of their basic types of labour protection, leaving them at constant risk of exploitation and adverse working conditions (Hamid & Intan, 2024; Hariri, 2024; Jan et al., 2024).

The resolution of labour disputes is also highly problematic in both countries. For example, the procedures in Indonesia can be very lengthy and complicated, which discourages employees from filing lawsuits in the first place (Afrizal et al., 2023; Justisi et al., 2024). Although Gay and Bosch (2020) and Nayagam (2013) note that the Malaysian Industrial Relations Act 1967 provides various methods of dispute resolution, many employees consider the process to be inaccessible or biased in favour of employers.

Pertaining to the issues of labour markets which had happened in Malaysia and Indonesia, reformations have recently been made in the respective legislations to properly address and rectify them. Amongst the most dynamic reformations in Indonesia is the Omnibus Law on Job Creation (Sembiring et al., 2020). This law aims to simplify the legal framework, attract foreign investment and promote job creation. Nevertheless, this reform has sparked protests and criticism for its negative effects, which were believed to weaken workers' bargaining power and job security (Mahy, 2022; Nugroho et al., 2024; Sembiring et al., 2020). In Malaysia, the amendments to the Employment Act of 2022 represented a serious effort to improve labour standards (Mahyut et al., 2023). These amendments include the extension of coverage to workers in various sectors and provide for maternity and paternity leave. However, similar to Indonesian legislation, the reforms are criticised as insufficient to meet the needs of workers, particularly in the context of migrant labour (Aun & Pereira, 2023; Wahab & Yusof, 2022).

Methodology

The methodology used in this research involved a qualitative comparative analysis of the legal frameworks of both Indonesian and Malaysian labour laws. This method was used because it offered the potential for an in-depth examination of the nuances, similarities and differences in the labour laws of the two countries. A qualitative design therefore allows for a comprehensive contextual understanding of the social, economic and legal factors that influence labour laws in these countries. This design therefore allowed for an in-depth analysis that went beyond numerical data, as the labour laws studied are complex and embedded in larger historical, political and socio-economic contexts. The impact of the legal framework on different groups of workers, such as migrants, informal workers and workers in high-risk sectors, was analysed.

The study systematically compared the decentralised, unionised structure of Indonesian labour law with a more centrally controlled system in Malaysia. This approach revealed the common problems as enforcement problems and the differences arising from the different legal traditions and the type of administration in each country. The methodology allowed the study to determine how these labour laws affected both domestic and migrant workers and whether the established labour laws were in line with international criteria, particularly the International Labour Organisation (ILO). Data collection required both primary and secondary sources to provide a comprehensive understanding of the topic under discussion. Primary sources included legal documents with national labour laws such as the Indonesian Omnibus Law on Job Creation Act and the Malaysian Employment Act with ancillary provisions regulating specific employment sectors. In addition, data from government reports and labour ministry reports from both countries are among the primary sources for this research as they provide insight into employment trends, wage data and the frequency and types of labour disputes. Secondary sources include academic articles, policy papers and research reports that analyse historical developments involving legal reforms and enforcement challenges. This proved to be insightful as these documents could be used to understand how such labour laws have evolved in both countries, the challenges faced in their implementation and the impact they have had on different segments of the workforce, particularly migrant and informal workers.

The data collected was analysed thematically, focusing on the main areas of labour law: employment contracts, wages, working conditions, occupational safety and dispute resolution mechanisms. The paper therefore examined the labour laws of Indonesia and Malaysia in terms of how these laws are applied and the extent to which they provide protection for workers. In addition, the comparative study assessed the effectiveness of these labour laws in addressing particular challenges such as the protection of migrant workers, the regulation of informal workplaces and the enforcement of minimum wages. The practical application of these laws was further developed using data on the outcomes of legal disputes, particularly in high-risk sectors such as construction and manufacturing. The research also looked at recent reforms, particularly the Omnibus Law in Indonesia and amendments to the Malaysian Employment Act, and assessed whether they will improve labour market outcomes. In addition, various theories of labour law and international labour standards, particularly those of the ILO, were examined to determine whether the existing framework is appropriate and whether improvements can be made. The conclusion was summarised to provide a comparative perspective on the effectiveness of labour law and to highlight best practises that could be adopted by both countries.

Findings and Discussion

Labour Market Structures

Both Indonesia and Malaysia have some specific labour market structures that have been strongly influenced by the historical, economic and social context of the regions. The labour market in Malaysia is characterised by a heavy dependence on foreign workers, particularly in construction, agriculture and manufacturing (International Labour Organisation, 2020; Wei et al., 2018). International workers make up around 15 % to 30 % of Malaysia's total labour force. International workers are of great importance in sectors where the local labour force cannot afford or is unwilling to employ such workers. According to the International Labour Organisation (2022), the International Organisation for Migration (2024) and Wahab (2020), there are more than 2 million registered foreign workers in Malaysia whose work papers are documented, mainly from Indonesia, Bangladesh, Nepal and Myanmar (Ness, 2021).

In contrast, the labour market in Indonesia is characterised by informal employment, i.e. workers are employed on an unregulated and non-standardised basis (Hamid et al., 2022; Pratomo & Manning, 2022). According to Rothenberg et al. (2016), Setyanti (2020) and Pratomo and Manning (2022), around 60 % of workers are employed informally, such as street vendors, small traders and factory workers. This high level of informal employment creates major problems for the regulation of working conditions and the expansion of labour protection. In addition, the Indonesian economy relies heavily on agriculture and manufacturing (Pratiyo et al., 2020). However, compared to Malaysia, which relies more heavily on foreign labour, the proportion of foreign workers in Indonesia is relatively low, as the country is a net exporter of migrant workers, particularly to Malaysia, the Middle East and other ASEAN countries (Dewanto, 2020; Ness, 2021).

These structural differences have significant policy implications. As Malaysia is dependent on migrant labour, its migrant worker laws are under increasing scrutiny for wage theft, abuse and exploitation of workers (Anderson et al., 2024; Aziz & Basir, 2021). Indonesia, meanwhile, faces a different problem: ensuring legal protection for its informal workers (Hamid et al., 2022; Ramadhan et al., 2021). These structural features have significant implications for both countries' approaches to labour legislation and enforcement.

Wage Disparities between Domestic and Migrant Workers

A persistent problem in Malaysia is the wage gap between domestic and migrant workers (Spitzer et al., 2023). Although Malaysia has implemented a minimum wage policy, many foreign workers receive lower wages due to exploitation, weak enforcement of wage laws and the precarious nature of their employment. Although the Malaysian Minimum Wage Ordinance of 2022 sets the minimum wage at RM1,500 per month (Halid, 2023; Medina, 2022) and plans to increase it to RM1,700 in February 2025, reports show that many foreign workers earn below this threshold (Palma, 2024; Sukumaran, 2022). Underpayment or non-payment of wages is also widespread and in violation of the 1955 Labour Act (Anam et al., 2021; Low, 2024; Mohamed et al., 2020).

The Malaysian government has just announced that the minimum wage of a worker will be increased to RM1,700 per month from 1 February 2025 (Bernama, 2024a). Furthermore, the increase for employers with less than five employees will take place six months later, from 1 August 2025 (Atikah, 2024). This decision was part of Budget 2025 to raise the living standards of low-income workers in Malaysia and create a fairer labour market (Atikah, 2024; Bernama, 2024a).

On the positive side, higher wages mean an increase in workers' purchasing power and possibly higher domestic consumption, which promotes economic growth (Bernama, 2024b). However, this increase in the minimum wage is not without its setbacks. Critics believe that the higher labour costs would burden employers, particularly SMEs, who could cut jobs, reduce working hours or increase prices to cushion the impact of a higher minimum wage, thereby increasing inflationary pressures (Bernama, 2024b; Ibrahim, 2024; Maverick, 2024). Furthermore, an increase in the minimum wage is considered risky in the current

unstable economic situation if it is not supported by sustained economic growth (Bernama, 2024b; Ibrahim, 2024).

In Indonesia, the minimum wage policy is determined by each province. Of the 11 provinces in Indonesia, the highest minimum wage in 2021 was set in Papua at 3.516 million rupiah, while the lowest was 1.950 million rupiah in East Nusa Tenggara (Fanny Nailufar et al., 2024). Although the minimum wage law applies to all workers, enforcement in the informal sector is inconsistent, as noted by Bazin et al. (2023), Kim (2020) and Mofea (2024). Indonesian Labour Law No. 13 of 2003 regulates the minimum wage, and the government periodically adjusts it according to economic conditions. However, many workers in the informal sector are still paid below the legal minimum wage, as reported by Hamid and Intan (2024) and Jan et al. (2024). The Indonesian Trade Union Confederation (KSPI) has frequently expressed its concern about the stagnation of wages, especially in industrialised areas, where compliance with minimum wages is often not guaranteed.

Lack of Effective Protection for Vulnerable Groups and Occupational Safety and Health Concerns

Vulnerable groups, including migrant workers in Malaysia and informal sector workers in Indonesia, face significant challenges in protecting their rights (Rahayu et al., 2024; Tjitrawati & Romadhona, 2024). In Malaysia, enforcement of these laws remains weak despite legal frameworks such as the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990, which provides guidelines for the housing and welfare of migrant workers. The COVID-19 pandemic has highlighted the poor living conditions of many migrant workers. Overcrowded accommodation (Loganathan et al., 2024), inadequate sanitation (Michael, 2024) and lack of access to healthcare (Tjitrawati & Romadhona, 2024) have been reported.

In Indonesia, informal workers are generally not covered by basic labour law protections such as health insurance, pension insurance and occupational health and safety (Bakroh & Hiilamo, 2024; Hamid & Intan, 2024). As in the informal sector, most of the labour protection provisions mentioned in Act No. 1 of 1970 are not enforceable. In this regard, informal workers in agriculture and construction are often at higher risk as they are unable to seek redress through formal grievance mechanisms (Kusdarini et al., 2021; Pribadi, 2022).

Occupational safety and health (OSH) continue to be serious issue in both countries. The OSH regime in Malaysia is legislated under the Occupational Safety and Health Act 1994, whereby employers are compelled to guarantee the safety of the work environment. However, the lack of effective enforcement of legislation remains a major problem in key sectors such as construction and agriculture, where many migrant workers are employed. Workplace injuries and fatalities are repeatedly reported, prompting some to call on the government to implement stricter labour protection and law enforcement measures. Studies by Halim et al. (2020), Yi et al. (2022) and Ismani and Jabar (2024) have found that the number of fatal accidents in the construction industry is trending upwards. Most of these cases involved migrant workers in the industry due to a lack of proper workplace safety practises and inadequate training.

In Indonesia, there are also significant barriers to health and safety in the workplace due to the large proportion of the informal sector. While the government has taken regulatory measures to improve workplace safety, such as the establishment of a National Council for Occupational Safety and Health (DK3N), enforcement of these regulations remains sporadic, especially in small businesses and places of informal labour. Lessons learnt after the 2017 Tangerang factory fire that killed dozens of workers highlighted that enforcement of safety standards in industrial areas is lax due to low safety awareness (Kapoor, 2017; Kapoor & Costa, 2017). This incident sparked public outrage across the country, pushing for stricter oversight and regulation.

Implications for Labour Law Effectiveness

According to the study by Eriyan Rahmadani Dianovfd u,f lxh a et al., 2023, there are significant differences in the labour laws of the two countries in terms of enforcement. Although Indonesia and Malaysia already have comprehensive labour laws, the problem lies in the effectiveness and full implementation of these laws. For example, the dominance of the informal sector in Indonesia has proven to be a major obstacle as most informal workers have limited legal protection. In Malaysia, exploitation of foreign labour has been found to be routine and weak enforcement of wage and safety laws is the norm.

This comparative study has highlighted various differences and issues related to workers protection laws, wage enforcement and protection mechanisms for vulnerable workers, particularly migrant workers and workers in the informal sector, in both Indonesia and Malaysia. The structure of the labour market, which relies heavily on the informal sector in Indonesia and foreign workers in Malaysia, has shaped the legal frameworks of both countries accordingly. These structures shape the challenges for workers and the labour laws themselves.

The informal employment sector dominates the Indonesian labour market, accounting for around 56% of the total workforce. The dominance of informal workers poses problems in the enforcement of labour laws designed for formal employment. These include laws on minimum wages, social security and working hours. This is also confirmed by the case study on the dispute over compliance with minimum wages in Indonesian manufacturing centres, particularly in regions such as Java where uniform application of wage laws is a problem. Despite the existence of national wage laws, such as Law No. 13 of 2003 on Manpower, many workers in these industries are vulnerable to wage theft or late payment.

Malaysia has a much more formalised labour market and relies heavily on foreign migrant workers, particularly in construction, manufacturing and domestic work. These sectors are also particularly vulnerable to conditions that make migrant workers particularly susceptible to all forms of exploitation, from low wages to no job security and poor working conditions. The Employment Act of 1955, while providing some level of protection, is still seen as woefully insufficient, particularly in terms of protection for domestic workers and the retention of foreign workers' passports by their employers, severely restricting their mobility and autonomy.

Enforcement of labour laws in Indonesia and Malaysia is complex and multi-layered, with particular challenges in protecting vulnerable workers. While both countries have implemented some labour law reforms, there are still significant inconsistencies and gaps. In Indonesia, the recently enacted Omnibus Law on Job Creation is highly controversial. While it aims to cut red tape and boost economic development, its critics claim that the law will weaken worker protection, especially with regard to the relaxation of restrictions on outsourcing and contract labour. This could lead to precarious employment, low wages and the exclusion of the most vulnerable workers, particularly women and migrant workers, from social security. However, Malaysia has made some progress, including the extension of maternity and paternity leave. However, the biggest protection gap concerns migrant workers, who make up a significant percentage of the workforce. Although the Employment Act has been amended, they often have difficulty claiming their rights due to a language barrier, cultural differences or lack of access to free legal aid. Existing dispute resolution or compensation institutions may also not be equipped to deal with the complex problems faced by migrant workers and are therefore characterised by delays and ineffective remedies.

Enforcement of labour laws has proven to be very inconsistent, especially when it comes to cases involving vulnerable groups of workers in both countries. While steps have been taken to reform labour laws in Indonesia, such as the rather unpopular Omnibus Law on Job Creation (Law No. 11 of 2020), these reforms have been criticised for weakening worker protections, particularly by easing restrictions on outsourcing and contract labour. As part of worker protection, contract-based employment must be strictly regulated to ensure that workers are not treated unfairly. One way to ensure that employment contracts favour workers is to set clear limits on contract duration and provisions that guarantee that

contract renewal or termination is fair and respectful of workers' rights. Employers must also be required to provide fair wages and other benefits comparable to those of permanent employees.

Contrasting with this, while the recent Malaysian amendments to the Employment Act include added maternity and paternity leaves, significant lacunae persist with regard to migrant worker protections and mechanisms for resolving disputes. The dispute resolution mechanisms based on the principle of migrant worker protection should provide easier and fairer access for migrant workers to resolve issues that arise in their employment relationships, without discrimination or administrative barriers. This could include the establishment of independent dispute resolution bodies, with approaches that are more sensitive to the needs of migrant workers, such as language, culture, and their more vulnerable legal status. For example, a dispute resolution center involving mediators who understand the migrant workers' situations, as well as regulations that allow migrant workers to file complaints without fear of deportation or other legal sanctions.

The fundamental policy of Labour Law should be to protect the weaker party, in this case, workers employees, from the potential abuse of power by employers that may occur in the employment relationship, with the aim of providing legal protection and achieving social justice. This policy is a legal policy orientation towards the creation of a national legal system that is fair, coherent and non-discriminatory.

Theoretically, Indonesian and Malaysian labour law enforcement respectively manifests their wider directions of these very laws- theories, especially about striking a balance between the protective component of the law and the need for economic growth. The challenges faced by both countries include creating a business-friendly environment to attract investment while ensuring adequate protection for workers. This can be seen in Indonesia's Omnibus Law, which is clearly aimed at boosting economic growth by streamlining regulations, but has come under attack for watering down labour rights.

Similarly, Malaysia's centralised approach to regulating labour laws has made the system more favourable to employers than workers in sectors characterised by heavy reliance on foreign labour. This gap between the two countries in terms of their governance structures, that is, the decentralised framework in Indonesia as opposed to the centralised policy making in Malaysia, has an even greater impact on the enforcement of labour laws. Labour laws in Indonesia are enforced in various ways in different provinces of the country, with workers protection therefore also varies. For example, Jakarta may have higher minimum wages than rural areas, leading to regional disparities in labour conditions. Malaysia's more coherent and centralised system reduces regional disparities but has created systemic problems, particularly in the exploitation of migrant workers.

Implications for Policy and Practice

The findings of this study have important implications for policy makers, workers and employers in Indonesia and Malaysia. Among the important messages is that there is a greater need for strong enforcement mechanisms to ensure that labour laws protect the rights of all workers, but particularly the rights of vulnerable groups such as informal sector workers in Indonesia and migrant workers in Malaysia.

Reforms are proposed for Indonesia, including the formalisation of the informal sector to broaden the scope of labour laws and social protection. What has been done or is on the agenda under the Omnibus Law on Job Creation is supposed to increase investment, but has been criticised as weakening worker protection, especially in areas such as manufacturing and agriculture. Policy makers should consider whether it is time to further revise the law to achieve a better balance between attracting investment and ensuring adequate labour standards, particularly by strengthening mechanisms for wage enforcement and workplace safety in the formal and informal sectors. Strengthening the labour inspection system and introducing digital means of filing complaints about labour violations are other ways to improve enforcement. The most pressing issues in Malaysia relate to the treatment of migrant workers. Policy reforms can focus on increasing legal protection for these workers by extending the full range of labour rights enshrined in the Employment Act 1955 to all migrant workers, including domestic workers. The

withholding of passports by employers must be prohibited as it severely impairs workers' ability to enjoy their rights and mobility. Finally, improved access to remedy for migrant workers who have been exploited, such as through simplified dispute resolution procedures and well-resourced labour courts, will ensure that workers can raise their grievances without being deterred by fear of retaliation or deportation.

Stronger cooperation with international organisations such as the ILO would also be beneficial for both countries. This includes, for example, the harmonisation of national labour standards with the ILO conventions on decent work and the protection of workers. Malaysia could ratify ILO Convention No. 189 on Domestic Workers, which would provide more protection to a sector of workers that is excluded from many labour laws. The other notable difference between the two countries is the role played by trade unions. In Indonesia, they have been more vocal in the past in defence of workers' rights, but their power has been significantly weakened in recent years due to legislative changes. A revitalisation of trade unions and their involvement in the political debate would contribute to better protection of workers' rights. Malaysia would benefit from the potential for a more autonomous form of worker representation by reforming its more centralised, state-controlled form of trade unionism and strengthening collective bargaining and worker protection (Eldeeb, I. M. I., Haris, A., & Muda, M., 2023).

Comparative Discussion

Several political, cultural and economic variables explain these differences in approach to labour law between Indonesia and Malaysia. Indonesia's decentralised system of government has led to major differences in the enforcement of labour laws in different regions. For example, some provinces have introduced higher labour standards with better enforcement mechanisms than others. This is part of Indonesia's broader post-independence political evolution, where power has been placed in the hands of regional governments to maintain stability in a diverse island nation. This has its roots in the British colonial administration in Malaysia, which left behind a legal and bureaucratic system that favours uniformity. However, the negative side of this centralisation is that the government exercised tight control over the various labour movements, often restricting the unions' ability to negotiate better conditions for workers. This top-down approach has contributed to Malaysia providing a relatively business-friendly environment, but at the expense of weaker protection for migrant and low-wage workers.

In addition, migrant workers play a different role in the perceptions of different countries and thus in the application of laws. Malaysia considers migrant workers as low-wage workers who fill gaps in industries such as construction and domestic work. As a result, this category of workers enjoys significantly less protection under the law. In fact, this under-protected category represents the larger social practises related to immigration and citizenship. Where the informal sector is larger, as in Indonesia, initiatives have focused on extending protection to an essentially unregulated labour force. In many ways, this has proved quite problematic due to the size and scope of this sector.

While Indonesia and Malaysia share the common goal of promoting economic growth through foreign investment, they differ significantly in their strategic focus on labour market regulation. Indonesia's Omnibus Law is representative of a neoliberal paradigm focussed on deregulation to attract global capital. While this approach may boost economic growth in the short term, it can also exacerbate social inequalities and problems with labour rights.

On the other hand, Malaysia, while keen to attract investment, is trying to strike a balance between economic growth and social stability, even in those sectors of the economy that are heavily dependent on foreign labour. While this may not create the conditions for the fastest economic growth, it could allow for long-term social cohesion and stability in the labour market.

There are useful lessons to be learnt from these different approaches. Indonesia can learn from Malaysia's emphasis on social harmony as a preventive measure against labour unrest and ensuring a favourable investment climate through measures such as strengthening social safety nets, promoting collective bargaining and upholding proper labour standards. Malaysia, on the other hand, can learn from Indonesia's

bold economic reforms by carefully considering targeted deregulation to increase efficiency and competitiveness. However, this should be accompanied by robust social protection to cushion vulnerable workers from the negative consequences.

Both countries will benefit from such a pragmatic approach that reconciles economic growth with social justice concerns. Indonesia and Malaysia can learn from each other and harmonise their policies towards sustainable and inclusive development. This could be a hybrid approach, combining elements of both strategies in a way that is appropriate to the respective sectoral and national contexts. What is needed is a balanced approach where the emphasis on economic growth goes hand in hand with an emphasis on social well-being for long-term prosperity.

Conclusion

This paper has provided a comparative overview of labour legislation in Indonesia and Malaysia by discussing key issues related to wage enforcement, protection of migrant and informal workers, and the effectiveness of dispute resolution mechanisms. Labour laws in both countries face serious challenges in ensuring that all categories of workers are adequately covered by these legal frameworks. Indonesia faces an informal sector, while Malaysia struggles with the vulnerability of migrant labour exploitation. The analysis shows the tension between creating a business-friendly environment to attract investment and protecting workers on the other hand.

The decentralised approach in Indonesia has led to mixed results in the implementation of labour laws in the regions, while Malaysia's centralised system has led to systemic problems in the protection of vulnerable workers, who are usually migrants. Despite recent reforms in both countries, there are still significant gaps in wage enforcement, workplace safety and dispute resolution. Future discussions could look at the role of globalisation, which continues to increase in the Indonesian and Malaysian labour markets - particularly with the rise of automation and the rise of the gig economy. Other discussions could look at how new technologies are changing labour law and worker protection in these countries, which in many ways will determine the nature of work in these two countries. Other valuable insights could come from comparative studies on how international labour standards, particularly ILO conventions, are implemented in other ASEAN countries to improve the enforcement of labour law in Indonesia and Malaysia.

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