Factors Influencing Termination of Employment in Malaysian Private Sector: An Analysis from Industry

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Abstract

Purpose of the study: This paper aims to analyse the factors of employment termination in Malaysian Private Sector from the industry.

Methodology: This study used a qualitative method by conducting an interview session with the Industrial Relation Officer of the Ministry of Human Resources Malaysia (MOHR). Interview sessions were held face-to-face with semi-structured techniques to enable in-depth study and comprehensive information. Five respondents were selected from experienced officers in dealing with termination cases based on service contracts. Interview sessions lasted approximately 60 minutes per respondent. The transcription process has been made before analysis. The thematic analysis methods were used whereby each data is coded based on the related theme.

Main Findings: The results found each of the actors plays an independent role in the industrial relations system. Regardless of the reasons and factors leading to the termination of employment, it affects all actions. This paper found three factors that lead to termination of employment which includes employee misconduct, employer's legal knowledge, and weaknesses of the law enforcement.

Applications of this study: This study contributes to the existing policy in the implementation of labour law in Malaysia, especially to the Ministry of Human Resources Malaysia. Based on the study conducted, some recommendations to the three actors in the industrial relations system to curb termination based on employment contracts in the private sector in Malaysia.

Novelty/Originality of this study: This study focuses only on termination of employment based on the contract of services regardless of other types of termination. The results of the study will use as a guideline for employers and private-sector employees in managing human resource management.

Keywords: Employment, Termination, Industry, Malaysian Private Sector

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INTRODUCTION

A study conducted by Norshamsidah and Wan Zulkifli (2018) found there are 14 types of termination in Malaysia. The five main types are retrenchment, misconduct, termination simpliciter, constructive dismissal, and forced resignation. Among the five main types, termination simpliciter is the subject of discussion in this study as the termination made without stating the cause and reasons for the termination. Termination of employment may occur a series of factors such as discipline, job performance and economy.

Statistics released by the Ministry of Human Resources Malaysia show 23,168 cases of termination were recorded in 2019, involving 21,920 domestic workers while 1,248 cases involving foreign workers. There were also concerns when 6,315 dismissal cases were filed in the JPPM in the same year. These resulted in a total of 29,483 cases of termination in Malaysia during the year (Kementerian Sumber Manusia, 2019). According to Marnisah (2019), the relationship in the industry comes from good cooperation and monitoring through law enforced by the government. In Malaysia, there are 24 statutes deal with labour laws. However, only two of the Acts directly involved in the termination of employment; the EA1955 and IRA1967.

Regardless of the type of termination that occurs, strong reasons for termination and legal justification for termination must be provided to protect the rights of employees. This article will focus on termination based on employment contracts to examine the factors that lead to the occurrence of termination simpliciter.

LITERATURE REVIEW

Termination of employment

An employee's service begins with a contract of service. The employment relationship is a legal concept that refers to the relationship between an employer and an employee, where an employee hired to perform the job under specific terms and conditions (Kamal Halili, 2015). A contract, either oral or written, is an agreement to hire another person as an employee, and the person agrees to provide his services as an employee (Mumtaj and Harlida, 2016). Once an employee signs the contract, the employee is considered to agree to any of the terms of the contract (Harlida, Azhar and Ahmad Munir, 2015; Katie, 2018).

However, this relationship will terminate upon termination of service under a contract of employment. Employment termination is an end of a relationship, in which case it can be done excellently and smoothly, without any conflict or in any circumstances (Baskaran, 2019). In each contract of services shall include a clause or terms of how the contract terminated. In these circumstances, any party may terminate the contract at any time it deems necessary. It is common practice when the contracting party ends the contract by giving notice to the other party (Maimunah, 2016; Baskaran, 2019). Problem arise when the employee not to read and understand the essence of the contract even though a signed employment contract has significant implications for the terms of the job (Muhammad Faris, 2017).

The terminating of this relationship is not an easy task. It is because the termination simpliciter allows termination without specifying the reasons for termination and based on the terms of the employment contract alone is no longer accepted in Malaysia (Donovan, 2016). The clause contained in the contract of employment does not give employers an absolute right to terminate the job of an arbitrary worker (Zulkiflee and Isa, 2019). Unlike in the United States, this termination, known as at-will employment termination, has long been used (Anita, 2006; Agnello, Stolowy and Winter, 2018). Employment laws used in the United States were influenced by the common law, applying the doctrine of master and servant. In this case, termination can cause at any time without having to state the reason.

Under section 10 of the Employment Act 1955 (hereinafter referred to as EA 1955), provides that each contract of service entered for a specified duration must include termination provisions. However, this Act only applies to workers earning less than RM2000 a month. Upon termination, contracts of service are referred to as sources of reference. Terms and conditions contained in the employment contract seen as a medium of protection, especially for an employee who does not cover under the EA 1955. According to the study conducted by Norshamsidah and Wan Zulkifli (2018), Industrial Relations Act, 1967 (hereinafter referred to as the IRA 1967) gives protection to an employee who has dismissed with or without any reasonable causes, in Malaysia. This Act provides the right to make representation to be reinstated, without any limitation of the wages. These two Acts become a contradiction when referring to the termination based on the contract of service. Both Acts are also often used to protect the rights of workers and employers. These Acts indirectly indicate that there is a relationship between the three actors who are the government, the employer, and the workers. However, the absence of standard termination procedures has caused dissatisfaction among employers.

Termination of service became more alarming as Jabatan Perhubungan Perusahaan Malaysia (JPPM) reported that there was an increase in the number of representation cases under Section 20 of the IRA 1967 in the year 2018, as shown in Figure 1.

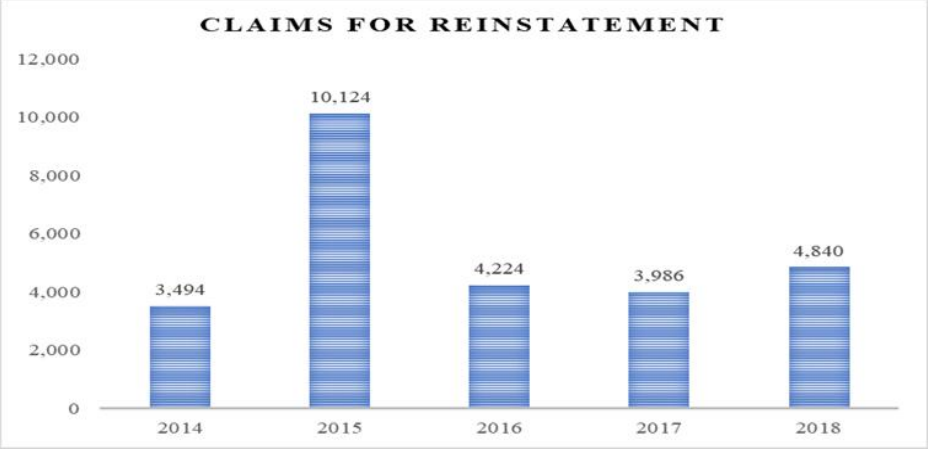

Figure 1: Claims for reinstatement (Jabatan Perhubungan Perusahaan Malaysia, 2019)

Besides, according to an annual report released by the Jabatan Tenaga Kerja Semenanjung Malaysia (JTKSM), a total of 13,599 labour cases were reported in the year 2018(Jabatan Tenaga Kerja Semenanjung Malaysia, 2018). The increasing number of service termination has raised concerns within the industrial relation system.

The employer's action to dismiss the employee for no justifiable reason is a negligence cause to the employee. Employers are taking action on termination of employee's services without regard to the termination. Therefore, the implementation of Acts must be examined and refined. The differences in the judgment of the Industrial Court have also triggered disputes between lawmakers (governments) and law enforcement authorities (employers and workers). This situation has raised questions about the actions of the dismissal, whether it was fair or otherwise. In this regard, this paper aims to identify the factors that lead to employment termination from three different perspectives which are the government, employers, and workers. A termination guideline is hoped to guide stakeholders, especially employers, for curbing unfair dismissal.

Employment Act of 1955

The progress or backwardness of a country like Malaysia depends on two main sectors, namely the public sector and the private sector. Both of these sectors play a role in ensuring more dynamic economic growth in line with the various government policies established. Around 1955, the Employment Act was enacted to protect workers from being exploited by employers, while placing minimum benefits that should be provided to workers.

In line with the growth of labour in Malaysia, the EA 1955 is one of the laws that give protection to the employee and the employer, respectively. The EA 1955 protects manual workers with salaries less than RM2,000 a month, as provided in the First Schedule. This limitation on wages has been increased from RM1,500 to RM2,000 after the amendment of the Act in April 2012. This Act provides minimum provisions on labour legislation, which also includes hiring, terms, and conditions of service and termination of employment. Indirectly it reflects that this Act does not give full protection to the employee, especially to the employee who has been exceeding the limitation of salaries.

As mention in Section 2, EA 1955, the contract of service defined as an agreement between the two parties, in which one party agrees to employ, and the other agrees to provide the service. It can be in any form, whether written or oral. It also involving express and implied terms of the contracts.

The contract of services gives an impression of the existence of an oral agreement granted by the employer. The question arises, is the oral contract able to protect workers' rights? A verbal agreement of service raises a problem for employees and employers to prove that both parties agreed on the deal.

Other than that, the contradiction happens when under Section 10 (1) stated that all employment contracts which exceeding one month must be in writing. It also applies to the contract of service that has a specified piece of work and time frame given to complete the task. -

Then, what will happen to an arrangement that does not exceed one month? Doesn't it require an agreement in writing?

Whereas Section 10 (2) EA 1955, the termination clause is required to put in writing

This section leads to the open interpretation of the termination of employment itself. There is no legal mechanism that monitors the implementation of the contract of service (Zulkifly and Hazrul Izuan, 2014). The agreement will only be as references by the labour officer in the event of a breach of contract. Moreover, there is no monitoring of the terms and conditions provided by the employer at the beginning of the employee's appointment.

Besides, the EA 1955 has a specific provision on termination in section 11(1) and (2). Upon the expiry of the time agreed, any contract will terminate automatically. It also applies to the completion of the contract. However, when it comes to the unspecified period, the deal is continuing accordingly.

Moreover, Section 12 (1) gives each party the right to enter a contract of employment to terminate the agreement. Each of them is free to provide a notice to one another, as agreed in terms of the contract. However, the length of the notice shall not be less, as mention in Section 12 (2). It is required to give the same period of notice for both parties. The minimum requirement that must fulfil is within four weeks' notice, six weeks' notice, and eight weeks' notice, according to the length of time the job is assigned. Parties have the right to terminate the contract of service without having to state the reason for the termination. In managing the dismissal, the question arises whether termination that is made based on terms in the contract of services is allowed or not. In this case, the employee who wants to resign has to provide such notice. Thus, for an employer, termination must be based on a justifiable reason. Otherwise, the provisions of the law

under the IRA 1967 will play the role of challenging the termination. For no reason, the separation would be an unfair dismissal. Although the right to terminate the employment is a management prerogative, it is not an absolute right of the employer. The action can still be questioned by any party, in particular, especially employee (Mumtaj and Harlida, 2016). Also, according toBaskaran (2019) and Balakrishnan (2010), employers do not have the absolute right to terminate the contract of service without justification and reason. The situation in the United States is contradicting, where the termination made at-will employment termination is recognized (Agnello, Stolowy and Winter, 2018).

Meanwhile, when dealing with the grounds of misconduct, Section 14 (1) is implied. There is three option given to the employer, even though the due inquiry is a requirement to be conducted. The employer may select whether to dismiss without notice, downgrade the employer, or impose any lesser punishment to the employee.

The investigation conducted by the employer, according to this section, became disputed when there is a lot of open interpretation on the term "due inquiry" itself. There is no definition given toward "due inquiry." The question arises as to what action the employer must take to meet the terms of "due inquiry." The failure to conduct an inquiry is not fatal to the termination's case. According to Balakrishnan (2010), an investigation should be made based on the rules of Natural Justice. It also must be practice before the termination occurs.

When it comes to the principles of Natural Justice, there are fundamental to the making of fair and just decisions. The laws briefly emphasize two things, which are providing ample opportunity to state the case (*audi alteram pertem)* and justice and impartiality (*nemo judex in causa sua*). The principle of Natural Justice is mention in the case of the Director-General of Customs v Ho Kwan Seng [1975] LNS 72, which has become a landmark case in the Malaysian administrative law. In this case, Justice Azlan Shah stated that there is no one is to condemn unheard when it refers to the rule of natural justice.

Industrial Relation Act of 1967

After the formation of Malaysia, the Industrial Relations Act 1967 was enacted to give full authority to the Minister of Human Resources to make decisions related to industrial disputes. The IRA is regulated to maintain industrial harmony in Malaysia, which provides the rights to the employee and employers who engaged in trade dispute issues, including termination of employment (IR Act, 1967).

As mentioned in subsection 20 (1), every employee has the right to make a representation to be reinstated to his former employment, when it comes to unfair dismissal. The employee may file the representation at the office of Director-General of the Industrial Relation Department, which is nearest to the place of employment. All employees, including non-union employees, are open to making the representation. However, there is a restriction on the timeframe that is obliged to fulfil. According to subsection 20 (1A), 60 days is given to the employee to make a complaint. The option is given to the employee either to file the representation during or after the date ends. However, it should bear in mind that the 60-day period is a mandatory requirement.

Indirectly, the provisions of this law have limited the termination of employment rendered by the employer (Suharne, 2018). In the case of See Jin v IMS Health Malaysia Sdn. Bhd [Award No. 481 of 2009], the employer has no right to terminate the employment contract without giving any reason to the employee, even in the event of the probation period. However, the exception granted to the employer if the employee commits misconduct. By providing notice as was in terms of the contract and based on a just cause or excuse, such termination may be recognized by the High Court, if the employer meets the conditions stated. Generally, the employer must have a

justification and reasons to terminate the employee, which follows the principle of Natural Justice. Then, the termination also must conduct in good faith.

It is because the court has the right to intervene in the decision whether the termination was fair or otherwise. In the case of Sitti Badriyah Shaik Abu Bakar v. Dr. Hamzah Darus & Anor [2009] 2 MLJ 233, the Court of Appeal stated as follows: -

"On the facts of this case under clause 11 of the contract of employment, the Respondents are conferred with the contractual right to terminate the Appellant's services by giving three months' notice, whether or not she had misconducted herself.

Applying the principle in Lionel's case, the fact that there were earlier allegations of misconduct and or indiscipline made against the Appellant did not preclude the Respondents from exercising their contractual right to terminate her employment".

From the principle in Lionel's case, the law will not allow a person to take advantage of his or her wrongdoing, known as the prevention principle. According to the case of Board in Government of Malaysia v Lionel [1974] 1 MLJ 3, The High Court held that there is no termination simpliciter. He was terminated under the contract of employment as agreed in the terms and conditions of the employment contract. When he commits misconduct, it is considered a mistake, and the penalty for termination is under the offense.

The principle also upheld in the case of Hasseni binti Abu Hassan against Naza Motor Mekar Sdn Bhd and Naza Motor Trading Sdn Bhd [Award No 914 of 2018]. His Excellency Gulam Muhiaddeen Bin Abdul Aziz stated that termination of employment based on the clause of the contract of service is a "termination simpliciter." The Industrial Court must examine whether the dismissal is a just and reasonable cause. The failure to meet the terms and conditions in the contract of employment may result in the termination without justification or reason. In this case, the fixed-term contract applies. However, the profession ends before the expiration. Based on the term of service that has been signed by both parties, it can be terminated at any time with one-month notice without compensation of monies paid for the uncompleted month. Although an employee agrees to the terms and conditions set forth, the court is of the view that an employer cannot rely solely on a termination clause to terminate the employee's service. The employees are also entitled to the legal provisions under Section 20 of the IR Act 1967. This situation led to an open interpretation of labour laws and created dissatisfaction when both Acts apply for the same reason, which is the termination of employment.

Employment Termination Factors

Many factors contribute to employment termination. Previous studies on the employment identified the factors that led to the dismissal. Discrimination is one of the factors that led to the termination. A study conducted by Aun (2017)found that discrimination occurred in terms of identity such as race, ethnicity, gender, and other background aspects such as skills, abilities, qualifications, and performance. Besides, Madinda (2014)found that termination of employment may occur due to various factors, including discrimination at the workplace. Employers in Tanzania, especially in the private sector, tend to terminate the services of an employee to replace stubborn workers and reduce workforce management challenges in the workplace. There is also discrimination against workers who register with the union.

Meanwhile, there are significant changes that have been made to the law to protect women employees during pregnancy. The court ruled that treating an unjust employer to a pregnant female worker is gender discrimination (Li, 2018). Bhatt (2016)found termination may also occur due to pregnancy or even while on maternity leave, in Malaysia. There is an act of discrimination of gender when her study found that the termination action taken against pregnancy was due to

the employer's refusal to pay maternity entitlements as provided in EA 1955. Indirectly, this suggests that there is a lack of protection against termination due to discrimination.

Besides, the misinterpretation of the termination procedure is one of the factors of employment termination. There was a discrepancy in the termination procedure, and the provisions of existing labour laws are still unclear, especially related to the proper investigative procedures. Lack of termination procedure on the termination due to pregnancy was also observed in a study conducted by Bhatt (2016). According to Suharne (2018), the law gives employers the right to terminate the contract of service. Under section 12 of EA1955, either employee or employer may end the contract of service as agreed upon of new employment. The agreement may be terminated by the employee if there is an illness or exposure to the risk of diseases (Balakrishnan, Aryana and Rathakrishnan, 2010). However, there is a limitation to the employer that they should exercise. In the event of termination, the employee has the right to file representation of reinstatement under Section 20, IRA1967. In the event of misconduct, the employer must conduct the due inquiry, according to Section 14, EA1955. However, when the employee filed the representation under Section 20, IRA1967, the court expected the employer to conduct the Domestic Inquiry (Ling and Dhillon, 2018). Lack of understanding of the termination procedure gives room for open interpretation of the law. Zulkifly and Hazrul Izuan (2014)indicated that there is a threat to the workforce as a result of ineffective law enforcement and minimum standards of labour law in Malaysia. In a study conducted by Barlow *et al.* (2018)found that an employee's job status has an impact on the employee's health. However, regulations set by the government can control the risk of deterioration in the health of workers. Therefore, the standard procedure must be formulated to avoid more misunderstanding of existing laws.

In a study conducted by Shuai and Wu (2018)found that a signed employment contract of service can protect employee's rights. The contract of service which contains terms and conditions need to examine as they impact on the employee. However, the lack of awareness in legal knowledge is also a factor in the termination of employee's services. Most workers are unaware of their rights to demand justice upon separation, which resulted in unfair dismissal. Madinda (2014) found that employees did not report for unfair termination cases is due to a lack of knowledge of their rights. Employees are also unaware of their rights in terms of compensation or benefits. According to a study by Zulkifly and Hazrul Izuan (2014), workers are at risk when there is a lack of knowledge about contracts of service. Lack of knowledge also applies to employers. According to a study conducted by Adam (2018), employers often do not realise their actions can cause harm if workers take legal action against them, especially when workers find it challenging to find new jobs. This situation requires employers to seek counsel for counsel when the termination process is unfair and proceeding in the Industrial Court (Suharne, 2018). It also affects the organisation when the employer must face the court proceedings because of the termination of employment. The lack of legal knowledge can cause the company or employees to hire others to do so. At the same time, it led to an increase in legal costs. A lack of awareness in legal knowledge, especially in employment law procedures and types of termination, can create a problem in the event of termination of service(Dhillon, 2013). Employers are also lacking in understanding the enforcement of the law. This situation affects the increasing number of cases of employment termination from year to year.

As such, this paper will use an interview method that focuses on termination based on employment contracts to parse what factors drive termination actions from three different perspectives, namely employees, employers and government.

METHODOLOGY

Research Design

Qualitative methodology is a widely used method of research in the field of social sciences. This method is used to explore and understand the meaning and understanding of individuals or groups of social or human problems. According to Liamputtong (2009), it is a method that focuses on the social world rather than the natural world. Qualitative research is a more flexible and appropriate method for understanding the meaning, interpretation, and experience of individuals (Creswell, 2009). Therefore, this study used qualitative methods to gain a deeper understanding of the subject matter. The research was conducted to hear individual complaints and to share the story of human life. This study is purposely to identify employment termination factors based on the contract of services. The purposive sampling method used in this study is to obtain in-depth information and information (Patton, 1990).

Instrument

The interviews were conducted with industrial relation officers serving under the Ministry of Human Resources Malaysia. The identified officers were from Jabatan Tenaga Kerja Semenanjung Malaysia (JTKSM) and Jabatan Perhubungan Perusahaan Malaysia (JPPM). The samples were determined by interviewing experienced officers from both departments, in Johor and Melaka. The officers who were selected are handling labour cases, especially in employment termination cases under the current role of the department. A total of five respondents were interviewed and identified anonymously as R-a, R-b, R-c, R-d, and R-e, as in Table 1.

Table 1: Number of respondents

	JTKSM	JPPM
Johor	2	2
Melaka		1

Source: Interview

Data Collection and Analysis

The study used a semi-structured face-to-face interview method to obtain precise information from the respondents' perspective without any prior expectations from the researcher. The study also involved in-depth interview techniques to gain a clearer picture of the government liaison perspective on service termination based on their experience in handling termination cases based on employment contracts in Malaysia. Interview sessions take about 40 to 60 minutes each. Interviews recorded audio using the T60 Professional 8GB Recording Digital Voice Audio Recorder. Besides, during the interview session, brief notes are also taken.

The process of transcribing interview data begins after each interview session ended. Interview scripts were analysed to facilitate the process of analysing data to obtain the findings. Interview data were then manually analysed using thematic analysis. The results of the study were coded by category and sub-category based on the objectives of the study. The data uses the F-P code for employee termination factors, the F-M code for employer termination factors, and the F-K code for termination factors that involving the government sector, as in Table 2.

Table 2: Coded

CATEGORY	SUB CATEGORY	CODE
Termination Factor	Employee	F - P
	Employer	F - M
	Government	F - K

Source: Interview

FINDINGS

The findings of this study were illustrated that each actor in the industrial relation system, which are employee, employer, and governmenthas their roles and responsibilities and rely on to each other in order to maintain industrial harmonies. Employment termination factors are identified and categorised by the main types of actors, as shown in Figure 2.

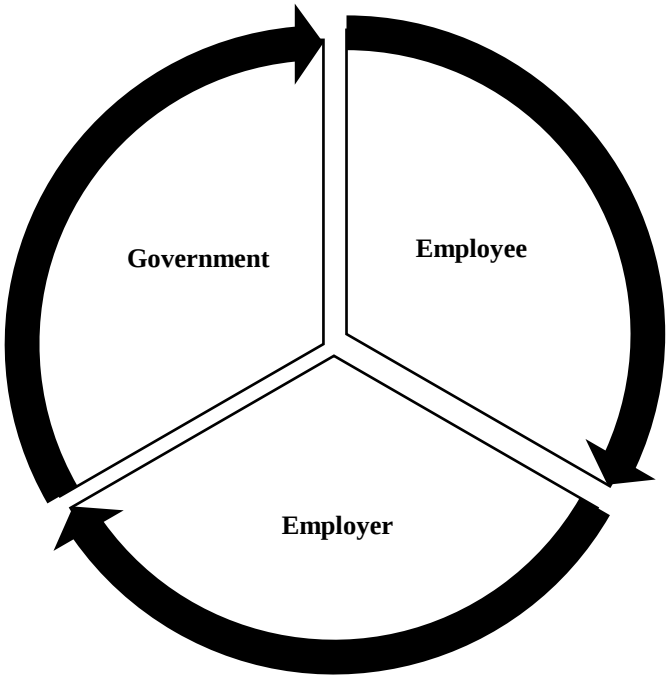

Figure 2: Three main actors in industrial relation

Employees

Employees are one of the key players who play an essential role in maintaining industrial harmony, especially in Malaysia. The employee contributes to the profits generated by the company. Loyal and responsible employees work hard together to keep the company's productivity and economic stability. However, some employees might harm the productivity and harmony of the company. It is because employees are not exempt from any wrongdoing that may result in employment termination based on the contract of services. Disciplinary issues that often hit the work environment make it as one of the factors that lead to termination of employment solely based on employment contracts.

The findings of the interviews revealed that disciplinary problems and employee misconduct were significant contributors to the employment termination based on the contract of services. Some workers intentionally commit a string of dissatisfaction with the services and benefits they receive. As mention by Respondent R-b "*Based on my experience, many of the factors lead to*

employment termination are disciplinary issues and misconduct by the employee himself. Sometimes they are dissatisfied with the employer or any of the benefits provided by the employer. So, they protest by way of attendance, absenteeism." The employer cannot tolerate workers who violate the rules and have disciplinary problems. As stated by Respondent R-e "*Based on employers' observations and feedback, misconduct is something that is not acceptable in the workplace. It will harm the company, tarnish the image of the company, and the Act of misconduct if left unchecked can affect others."* It has an impact on the socio-economy of the company itself, especially concerning human resource management. An unhealthy environment can affect a company's productivity. The attitude of employees who are careless and disobey to the rules set by their employers can also give a negative impact on the workplace environment.

This situation will make employers take drastic action that may result in employment termination based on the contract of services. As mention by Respondent R-a "*When an employee violates the rules, but the employer does not want to continue with the domestic inquiry, the employer will continue the action to terminate the worker based on the terms of service".* Through Malaysian Labour Law, employers can use methods that they think appropriate in addressing disciplinary issues. The employer must conduct an internal investigation, which set out in the provisions of Section 14 of the EA 1955. However, there is no specific procedure set by the government concerning the investigation process. This situation becomes complicated when it is the employer's responsibility to investigate in a manner that is considered fair and just. This study supports a study conducted by Zulkifly and Hazrul Izuan (2014), in which the absence of standard procedures in termination will threaten employment. Before prospective employees enter employment, the terms and conditions in the contract must carefully be researched and apprehended. Every job requirement provided must be understood and agreed. Signed employment contracts need to be kept by employees for future reference.

Employers

Employers play an essential role in determining the stability of an employee's employment. Employers and employees depend on each other to achieve the same objective of profitability. Relationships between workers and employers depend on each other to create economic stability and corporate respect in the workplace. The employer is also responsible for the discharge of all workers' rights by giving appropriate benefits or rewards for the tiredness and sweat given to them. However, there is still exist an employment termination based on the contract of employment, which seen to be due to the employer.

The study found that employers have a lack of knowledge regarding the implementation of labour laws practised in Malaysia. Legal knowledge is an important issue that every employer should consider. The process of controlling disciplinary action provides the employee with the option to either obey or deny the operation. Any change in the provisions of the proposed Act and regulations should be considered and understood by all employers, especially those involved in human resource management. As stated by Respondent R-a "*This process of domestic inquiry can be complicated because employers have to investigate, appoint panels and prepare reports before termination takes place. Not all employers have these capabilities. There are also situations where the employer himself does not want to investigate and continues to issue terminations".* Disparities in the management of human resource management especially of worker discipline complicate the situation when employers must deal with legal action taken by workers, for example, regarding the internal investigation process that the employer must conduct. The complicated process creates a dispute when it comes to questioning the employer's ability to perform the internal investigation. It has little to do with the termination of employment based on

the contract of service. Lack of knowledge may lead to wrongful termination. It is also considered as unfair and unreasonable. The actions of a few human resource officers who only accepted and acted upon the orders of their superiors also had a high impact on the workers.

The EA 1955 provides for the termination under the terms in the employment contract. However, other laws might assist in protecting workers. This situation often comes as a surprise to employers when they receive a complaint regarding the employment termination from the Industrial Relation Department Malaysia (JPPM). Respondent R-c stated *"Employers lack knowledge. They do not know that the provisions under the Industrial Relations Act allow workers to file cases under Section 20, even though employment contracts allow for termination. When the case filed at the JPPM, they were shocked that other laws do not allow termination under a service contract."* Its gives employers a significant blow when it comes to dealing with various legal processes. Besides, the employees in an advantageous position when the employer fails to comply with the provisions and procedures. This situation gives the impression that employers fail to understand fair and proper termination procedures. The study by Adam (2018)and Suharne (2018), is further confirmed from the results of this study. It is challenging when the level of knowledge of the law among workers is also inadequate. This analysis indirectly supports studies conducted by Madinda (2014),Zulkifly and Hazrul Izuan (2014), and Dhillon (2013). Therefore, there are a few things to keep in mind when it comes to employee services. In the event of misconduct, the disciplinary process, including the domestic inquiry, must be carried out by the employer. The Act of termination directly without interrogation is strictly prohibited. Investigations must be carried reasonably to resolve any issues, to provide justice while protecting both parties from any future demands.

Government

Maintaining economic stability and industrial harmony are essential roles played by the government. The enactment and enforcement of various provisions of the labour law have put the industrial communications system in Malaysia in good shape. Meanwhile, multiple procedures are considered as a mechanism for maintaining industrial harmony. However, the question arises as to whether the government also contributes to factors of employment termination.

Each country has its policy and economic outlook. Changes in the implementation of the system may affect the country's economic status. These changes may also affect the employee. When there is economic instability, the financial condition of the company may also affect it. As mentioned by Respondent R-d, *"The economic situation also led to the termination. If the employer does not have high demand, then termination will be made as well. But it must follow the Employment Act 1955 and the contract of service agreed upon by both parties."*

This situation has an impact when the employer takes drastic action or decision to terminate the services of an employee for the sake of the company. The employers may take various initiatives to ensure the company remains relevant. The last step is to reduce the workforce and close some of the company's operations. Generally, each of the proposed provisions sets a minimum standard of protection for each player in the industrial system. Often some amendments in the existing laws and regulations have an impact on all parties involved. Amendment needs to be made to labour laws to avoid conflicts of interest because of industrial development. However, there are still factors that lead to termination of services based on employment contracts resulting from the weaknesses of the law itself.

The study found that there was a lack of standard termination procedures for each violation that created an opportunity for the employer to terminate the employment based on the contract of services. Also, there are still have questions about the procedures and actions that employers must

take before ending an employee's work. The differences in the provisions of the law raise questions about how it should implement. As mentioned by Respondent R-a, *"The provisions of the existing law do not prevent any party from terminating the service, whether on the employer or the employee's behalf. However, how the termination occurred? What kind of action taken before the termination of the employment will examine?"* This situation is taken advantage by the employer to terminate the employee based on the terms and conditions specified in the contract of services. As stated by Respondent R-c, "*Employers use legal weaknesses to terminate employment. It is because they will always defend their actions to terminate employment under the contract of employment"*.

This study found there is a discrepancy in the termination procedure practised in Malaysia, which was also supported by Bhatt (2016). The situation is becoming critical as the level of legal knowledge among employers is also one of the factors behind the termination of employment. After the dismissal, the question of the justice of the workers arose. Weaknesses in law enforcement are also grounds for termination based on the contract of services. It is especially frustrating when legal provisions are often used as justification for employers for their actions. However, there were different views of the respondent. The government does not need to provide standard procedures and policies. It is because each employer has different capabilities depending on the type and sector selected. As such, it reverses the employer's responsibility to formulate strategies in line with company requirements.

CONCLUSION

From the literature review, there are several factors of termination of services identified as workers' discrimination, negligence of service termination, lack of labour law knowledge, and lack of awareness of labour law. The findings of the study found that there was no element of employee discrimination and a lack of awareness regarding labour legislation at the time. Worker misconduct and disciplinary issues are factors leading to termination of service based on employment contracts. Besides, the study also found that work performance and employee health status also contributed as a factor in the termination of services based on employment contracts. However, the findings support previous studies which suggest that there is a lack of service termination procedures and a lack of labour law knowledge at the employer level. Weaknesses of law enforcement are also seen as contributors to the termination of service based on employment contracts.

The absence of specific procedures in the termination of employment provides an opportunity for open interpretation with the implementation of existing labour laws. The situation gives the impression that there is still a gap in labour legislation in Malaysia that needs to fix. A standard procedure of termination simpliciter must develop for the guidelines to the employer and employees, especially to the private sector. Therefore, various awareness programs on labour law need to implement from multiple levels. Comprehensive training on legal knowledge should be provided to human resource practitioners to gain an understanding of human resource management. Indirectly its assist the government in addressing the issue of termination of employment. Not only from the government, but the company also has a responsibility for it. Other than that, extensive occupational subjects, including the labour law, should be introduced at the university level to provide early exposure to students who one day be employed.

Each of the actors in the industrial relations system plays an interdependent role to ensure that the contract of service can smoothly be prospering. Regardless of the reasons and factors leading to termination of service under a contract of services, it affects all actions. Each actor has responsibilities and roles that depend on one another. In the event of a failure on one of the actors,

there will be instability in the corporate communications system. It will also result in various disputes that may create corporate actions such as strikes, pickets, and blockages. Every performer needs to understand their responsibilities and roles to protect their rights and interests

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