

THE lingering fears on the loss of employment, following the global financial turmoil, were the main concerns of the working population in the country, and the world at large, towards the closing chapters of last year.

This unhappy phenomenon crossed over into this year and these dark clouds will hover around for a good part of this year. Unemployment issues has taken precedence and prominence in many table topics across the nation.

However, little is mentioned or reported on the self employed and the small and micro businesses. Their pain and losses were no less catastrophic. It all appears to be gloom and doom with learned experts and governments seeking new directions with stimulus and bailouts, but the light at the end of the long tunnel is only a flicker.

Unemployment: who will be socially responsible?

The number of affected employees retrenched or about to be retrenched continues to soar. The actual number is anybody's guess as those in the informal sectors tend to be excluded. The consequences of retrenchment and loss of employment or businesses for the self employed will be the enduring hardship on all affected workers.

SR during global recession



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That sparked the debate on how and who will be socially responsible for the cancellation of orders and business failures triggered by the global financial turmoil and admittedly the

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recessionary impact that befell on the industry?

This cascaded into the workers' misfortune. While the re-engineering and

revitalisation is being worked out, the thoughts on the mind of the workers will be the social protection and how the social responsibility umbrella can open up to them for comfort and survival.

Some socially responsible announcements by employers and the government to mitigate the pain provide some relief.

Employers "will only be retrenched as a last resort" and meanwhile measures were being taken to reduce working hours and cost-cutting measures were instituted. It is comforting that the government announced that a sizeable fund will be allocated for training and retraining of affected workers and will find them alternative employment.

While all these were well received and a tonic for relief, we shall examine how workers are protected under the Malaysian employment laws. Already Malaysia is ranked among the top, even outshining developed countries, for workers separation and termination benefits and the system is recognised as a model for

emerging economies.

Malaysian employment legislation

The growth and achievement of the Malaysian economic development relied on the foundation of harmonious industrial relations and a strong set of legislation which guided the management and conduct of employment relationships.

However, there may be imperfections in some of the legislation. Employment laws, like businesses, are dynamic and not static and it can only get better by the day and in due course. For those not too familiar with the employment legislation, businesses have to comply with the following core legislation:

- The Employment Act 1955
- The Trade Unions Act 1959
- The Industrial Relations Act 1967
- The Employees Provident Fund Act 1991
- The Employees Social Security Act 1969
- The Occupational Safety and Health Act 1994

The above legislation and the relevant regulations provide sound protection with socially responsible benefits for the employed, and in facing these imminent "hard" times.

By the same token, workers should adopt a socially responsible attitude to adapt to changes, accept training and multi-tasking and take on a little discomfort, if any.

Code of Conduct for Industrial Harmony and social dialogue

In keeping up with the spirit of these legislation, businesses are guided by a Code of Conduct for Industrial Harmony. Other Social Responsibility (SR) stakeholders, that is the government and the trade unions, would agree that these employment laws are the cornerstone of our progress towards a developed economy with some refinement from the Tripartite Mechanism. The parties to the tripartism are the government, the employers federation and the trade unions, in this case, the MTUC.

To strengthen the bond of industrial harmony, social dialogue is in place. Social dialogue includes all types of negotiation, consultation or exchange of information between or among representatives of governments, employers and workers, on subjects of common interest relating to economic and social issues.

It could take place between employer and employee representatives on matters affecting their interests, and could also include governments, where broader

issues, such as legislation and national social policies, are at stake. Social dialogue is based on the recognition that employers and workers have both competing and mutual interests, and plays a significant role in industrial relations, policy formulation and governance within the country.

The UN International Labour Organisation

Malaysia is a member of the United Nations and a signatory to the International Labour Organisation (ILO). The ILO is a UN agency with a tripartite structure that was established for the purpose of setting international labour standards. These minimum standards are legal instruments setting out universal basic principles and rights at work. They pertain to

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workers everywhere, working in any type of organisation; and are intended to prevent unfair competition based on exploitation and abuse.

As an active participating member of the ILO, most of Malaysia's employment legislation are consistent with global standards.

In the earlier article, it was stated that in the development of global guideline on SR, reference will be made to some core ILO conventions which were covered under the UN Global Compact. The four principles are repeated here for easier reference:

Labour

- Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- Principle 4: the elimination of the right to collective bargaining
- Principle 5: the effective abolition of child labour; and
- Principle 6: the elimination of discrimination in respect of employment and occupation

ILO Core Employment Conventions

The above principles were derived from the following core conventions and Malaysia's position is as follows:

- No 29 – Forced Labour, 1930 (denounced by the government)

Provides that each ratifying member shall undertake to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

- No 87 – Freedom of association and protection of the right to organise, 1948

Provides that workers and employers without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing, without previous authorisation

(Not ratified by the government)

- No 98 – Right to organise and collective bargaining, 1949

Provides that workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment, particularly in regard to acts calculated to make employment subject to non-membership of a trade union, to cause dismissal of, or prejudice to, a worker by reason of union membership or participation in union activities.

(Ratified by the government)

- No 111 – Discrimination (Employment and Occupation), 1958

Requires each ratifying country to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating discrimination

(Not ratified by the government)

Evolving SR

It is apparent that the core subjects in the global SR Guideline Standards evolved around Human Rights. Notwithstanding that some of these conventions have yet to be ratified, the Malaysian economic development relied on the foundation of harmonious industrial relations under existing legislation and this journey will continue under the cloud of economic uncertainty.

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