

AN EXAMINATION OF THE LEGAL, SOCIAL, AND ECONOMIC DETERMINANTS OF STRIKE RARITY IN MALAYSIA AND THE STRATEGIC ROLE OF ALTERNATIVE DISPUTE RESOLUTION

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Abstract: *Strikes are quite rare in Malaysia due to strict legal frameworks, economic dependencies, and alternative mechanisms for conflict resolution. The IRA 1967 imposed procedural requirements of prior notice, secret ballots, and union approval, which discourage industrial actions. In addition, the judiciary plays a critical role in ensuring strikes comply with legal provisions while maintaining public order and economic stability. Strikes affecting the public's interest, such as healthcare and transportation, are further controlled to avert inconvenience to the public. The paper explores the underlying factors for the low strike frequency and examines the effects on the economy in terms of stalled production, financial loss, and impaired industrial relations. This study, while encouraging ADR mechanisms in containing disputes, also underscores that employees' grievances be heard and addressed. Recommendations include improving ADR processes, empowering trade unions, and simplifying legal procedures to balance workers' rights with national economic interests.*

Keywords: *Strikes, Industrial Relations Act 1967, Malaysia, Alternative Dispute Resolution*

Introduction

Strikes in most countries are seen as a legitimate way in which employees can air their discontent over working conditions, wages, or other employment grievances. Globally, strike actions are not a new feature, as countries such as the United Kingdom, France, and the United States experience strikes quite often to negotiate better terms of working and fair treatment. However, strikes are extremely rare in Malaysia, largely due to the legal, social, and economic factors highly regulating industrial actions (Che Shaari, 2024). Strikes in Malaysia are primarily governed by the Industrial Relations Act 1967 (IRA), which sets strict procedural requirements such as advance notice, secret balloting, and union approval before a strike can take place. Deviations from these procedures often lead to the courts declaring strikes illegal, thus discouraging employees from declaring industrial action (Abd Razak & Nik Mahmud, 2021).

In addition to that, the judiciary plays an important role in interpreting and adjudicating strike laws to ensure the strikes will not hurt the economy or affect essential services such as healthcare, transportation, and utilities (Wahab, 2021). Public order and economic stability are accorded the highest priority, and workers in these sectors find it hard to organize strikes. The Malaysian courts regularly issue injunctions to prevent strikes viewed as illegal or against national interests, further restricting industrial actions (Amin, 2023). Strikes often result in significant costs for employers and employees, including lost wages, production delays, and diminished competitiveness, especially in sectors with thin profit margins (Freeman & Medoff, 1984).

The strong cultural preference of Malaysians for non-confrontational conflict resolution further contributes to the low strike frequency. Employees are encouraged to seek alternative dispute resolution methods, such as mediation and arbitration, which are widely regarded as effective and peaceful ways of settling disputes. Trade unions also negotiate fair conditions, though their influence is usually restrained by legal and procedural limitations. Strikes, while disruptive, may also create lasting effects on employee morale and industrial relations, as tensions and distrust between workers and management can linger after disputes are resolved (Ferne & Metcalf, 2019). The fear of job loss, financial penalties, and social stigma further dissuade employees from engaging in strikes.

This report explores the reasons why strikes are rare in Malaysia, emphasizing the legal, social, and cultural barriers to industrial action. It also examines the economic consequences of strikes, both on businesses and the broader economy, while providing recommendations to ensure a balanced approach that respects workers' rights and maintains Malaysia's economic stability. Understanding the dynamics of strike actions and their productivity implications is critical for policymakers, as unresolved labor disputes may also undermine economic performance and consumer confidence (Bryson, Gomez, & Willman, 2017).

Why Strikes are Rare in Malaysia

Strict Legal Frameworks

Strike action in Malaysia is severely circumscribed by the IRA, 1967, which has imposed stringent procedural requirements to be followed by workers and trade unions before going on strike (Abd Razak & Nik Mahmud, 2021). Before the strike commences, employees must give notice in advance to employers, hold a secret ballot, and obtain formal approval from the trade union representing workers. These are the requirements that have ensured that strikes are

conducted within the confinements of the law and in an orderly manner. Non-fulfillment of any of the steps usually leads to the strike being termed illegal; the workers are liable to be dismissed, lose wages, or even face litigation. Budd & Bhavé (2019) argue that such regulations create a substantial barrier for workers, minimizing the chances of collective action. In sum, employers use the available law in attempts to obtain injunctions from the judiciary to stop strikes, when irregularities exist. This legal framework means a guarantee of industrial peace, reducing disruptions; at the same time, it suppresses the workers' ability to voice grievances through collective action. This framework reflects the government's priority for economic stability but raises concerns about limiting workers' rights to protest. In Malaysia, such legal restrictions create an environment in which industrial disputes are more frequently resolved through alternative means than strikes (Wahab, 2021).

Essential Services Restrictions

The Malaysian government imposes severe restrictions on strikes in the so-called "essential services" industries, including health care, public transportation, and utilities (Gay & Bosch, 2020). These industries are related to welfare and economic stability; therefore, any disruption may lead to widespread consequences. For instance, in the case of a nurses' strike studied by Chen et al. (2022), there was a significant disruption to patient care, with elective procedures postponed and emergency response times delayed. Productivity in healthcare was reduced by almost 30%, raising concerns about public safety and organizational reputation. In order to avoid such disruptions, the law imposes minimum service requirements and more stringent conditions on strike approval for essential service workers. Employees in these sectors often face the dilemma of voicing grievances while adhering to regulations that limit their ability to take action. Government intervention is common, with authorities stepping in to facilitate arbitration or mediation to resolve conflicts. These restrictions, while ensuring public safety, often leave workers feeling powerless, particularly when their concerns are not addressed promptly (Harahap et al., 2024).

Cultural and Social Factors

Malaysia's cultural values prioritize harmony and collective problem-solving over confrontational methods like strikes. The societal emphasis on peaceful resolution is deeply rooted in cultural and religious traditions, influencing how industrial disputes are approached (Maha et al., 2024). Employees often fear the negative repercussions of strikes, including wage loss, potential job termination, and social stigma within their communities. Freeman & Medoff (2020) point out that the financial vulnerability of workers prevents prolonged labor action since most employees cannot afford the economic strain caused by wage interruptions. Trade unions, while established to protect workers' rights, often face low membership rates, bureaucratic inefficiencies, and limited bargaining power (Amin, 2023). The union leadership's ability to mobilize workers is further weakened by the requirement for secret balloting and formal approval processes. Additionally, employers sometimes use these limitations to their advantage by offering minor concessions that may dampen tensions but do not necessarily meet the workers' demands. Social norms, financial insecurity, and weak trade union influence altogether create conditions in which employees would opt for negotiation or other means of ADR over strikes.

Strikes are rare in Malaysia due to a combination of strict legal frameworks, restrictions on essential services, and cultural influences that favor peaceful dispute resolution. The stringent requirements of the Industrial Relations Act 1967 create legal barriers that make collective action difficult, while essential service regulations further limit workers' ability to strike.

Additionally, Malaysia's cultural emphasis on harmony, financial insecurity among workers, and weak trade union influence discourage prolonged labor action. As a result, industrial disputes in Malaysia are more commonly addressed through alternative dispute resolution methods rather than strikes, ensuring economic stability but also raising concerns about workers' ability to advocate for their rights effectively.

Economic Costs of Strike Action

Financial Losses of Employers

The financial loss suffered by employers is one of the most immediate and direct influences of strike action. When workers go on strike, businesses suffer production delays, missed deadlines, and disruptions along their supply chains (Asogwa & Nosike, 2024). In industries reliant on efficiency and timeliness, like manufacturing, strikes have translated into huge financial losses. For instance, Smith et al. (2021) recorded a 40% decline in productivity during an industrial strike in manufacturing, as operations were forced to run at reduced capacity due to workforce shortages and logistical disruptions. Other additional expenses besides lost production that are experienced by employers include replacement workers, contracting out, or overtime to nonstriking workers (Antentas, 2022). Delays in supply can lead to loss of consumer or client goodwill and reduced service or supply contracts, reputation, and future sales in very competitive markets. A lot more opportunities can be lost when business operations lag behind their respective rivals. Thus, strikes not only disrupt short-term productivity but can also cause ripple effects that impact a company's long-term competitiveness and growth.

Economic Risks for Employees

While strikes are meant to protect workers' rights and demand better conditions, they carry significant economic risks for the employees involved (Asogwa & Nosike, 2024). Employees usually also have to give up a day's wages or the time period of strike; these periods can be extended with negative implications on workers who live from hand to mouth. Budd (2020) says that the personal financial vulnerability of employees from poor and low-income classes acts as their key deterrent to striking work since the temporary loss is valued more than the possibility of a long-term benefit. If a strike is declared illegal, workers face the threat of job termination, disciplinary actions, or legal penalties. In cases of daily wage earners or contractual employees, these risks turn worse because they mostly do not have the protection of any formal letter of employment. Employees are also at risk of facing reduced job security, with employers viewing striking workers as disloyal or expendable, leading to strained relations even after the strike has ended. The cumulative economic risks discourage workers from taking collective action, especially in Malaysia's tightly regulated labor environment (Maha et al., 2024).

Impact on Public and National Economy

Strikes in essential fields like transport and health have greater ramifications economically, even beyond the organization that is involved in the strike (Rhomberg & Lopez, 2021). For example, strikes by public transportation workers create inconveniences, making it difficult for the general population to go to work or school, thus low productivity at the workplace. In this same line, healthcare strikes, as discussed by Chen et al. (2022), diminish patient care, further damaging the reputation of healthcare providers and creating longer-term consequences for service provision. Strikes on a macroeconomic scale create economic uncertainty that can discourage foreign investors and lower consumer confidence. Firms may view recurring labor

disputes as a risk factor and shift investments to more stable economies. As Bryson, Gomez, & Willman (2017) note, perceived industrial instability will thus have a negative effect on Malaysia's economic competitiveness, especially in industries reliant on foreign trade and investment. The combined effect of strikes on organizational productivity and national economic growth brings out the need to balance workers' rights with the greater economic interest (Pohl, 2018).

Strikes, while a means for workers to assert their rights and demand better conditions, come with substantial economic consequences. Employers experience financial losses due to production delays, additional costs, and weakened competitiveness. Employees, particularly those from lower-income groups, face economic insecurity, job instability, and potential legal consequences. On a larger scale, strikes in key sectors disrupt essential services, hinder national productivity, and deter foreign investment. Given these impacts, it is crucial to balance workers' rights with economic stability, ensuring fair labor practices while minimizing disruptions that can weaken businesses and the national economy.

Conclusion and Recommendation

Thus, strikes are a rare sight in Malaysia because of strong legal frameworks, restrictive regulation of essential services, and cultural acceptance of ADR. The IRA of 1967, with stringent procedural requirements, acts against industrial action since most instances lead to the strike being declared illegitimate. While this legal environment ensures industrial harmony and minimizes disruptions to the economy, it simultaneously presents obstacles for employees in articulating their grievances effectively. Additional difficulties arise for workers in essential services, like health and transport, due to government intervention and judicial control that ensure public welfare. The judiciary plays a critical role in managing strike actions by enforcing compliance with strike laws, issuing injunctions when necessary, and promoting ADR methods like mediation and arbitration. These measures are very helpful in maintaining economic stability and protecting public interests, but they also tend to favor employers and suppress workers' collective bargaining power. However, when strikes do occur, the effects are often devastating, as evidenced by production delays, financial losses, disrupted essential services, and ruined industrial relations. These economic and social impacts emphasize the importance of a more balanced strike management approach that caters to workers' rights while ensuring minimal disruption to businesses and society.

This simplification of requirements under the Industrial Relations Act 1967 allows workers to be more certain about the process for organizing legal strikes. In practice, all these procedural complications of union approval, secret balloting, and formal notice periods have given rise to bureaucratic delays that impede workers from taking timely action. Thus, streamlining such procedures-while maintaining the compliance requirements for essential safeguards-will definitely enable workers to assert their rights with much less stumbling blocks. Also, speedier judicial decisions on industrial disputes will ensure that labor disputes are amicably settled in the shortest time, thereby minimizing prolonged economic losses.

Broadening ADR mechanisms such as mediation and arbitration avert industrial disputes from graduating into strikes. The government is encouraged to put more funds into supporting the ADR processes, which include training skilled mediators, creating special arbitration panels, and promoting ADR as the preferred way to handle disputes. ADR offers employers and employees an inexpensive, efficient manner in which to reach a mutually agreeable solution while continuing to work together harmoniously. In industries where strikes would have disastrous effects - for example, in healthcare or public utilities - ADR can be a necessary

instrument in conflict resolution. Trade unions must be strengthened to ensure that grievances of workers are presented effectively and their redressals sought. Trade unions, no doubt, have a crucial role in the negotiation of agreements, but they often suffer from defective membership, financial shortcomings, and bureaucratic obstacles. The government can facilitate trade unions through leadership training, legal advice, and financial assistance to build their organizational capacity. Stronger unions will improve collective bargaining processes for more constructive negotiations that can preempt strikes and promote equitable labor agreements.

The Industrial Relations Act 1967 must be reviewed periodically to ensure its relevance to Malaysia's changing economic and social environment. The laws related to strikes need to maintain a delicate balance between the right of employees to protest and the least possible disruption of essential services. Particular attention should be given to redefining regulations for workers in critical sectors, whether through structured negotiations or special provisions for disputes in such industries. The changes in the law can also address new labor challenges, such as the proliferation of gig economy workers who do not enjoy formal representation under conventional labor laws. Public awareness campaigns are necessary to enlighten employees and employers, as well as the general public, on their rights and responsibilities under Malaysian industrial laws. Misconceptions on strike laws are one of the main reasons for illegal strikes and poor labor-management relations. Awareness programs can be arranged, which can highlight the legal procedures of organizing strikes, benefits of ADR mechanisms, and constructive dialogue between workers and employers. Such campaigns could provide a culture of cooperation and mutual understanding among them and prevent labor disputes from being blown out of proportion into strikes that disrupt industries.

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