

SMEs' Knowledge of Legislated Employment Rights: Malaysian Perspective

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Abstract – *This study seeks to investigate small and medium-sized enterprise Human Resource (HR) practitioners' knowledge pertaining to legislated employment rights at the workplace as laid down by the Employment Act (EA) 1955. The EA provides a variety of individual employment rights covering protections of wages, statutory right to the general standard of working time, statutory right to rest day, public holidays, annual leave and sick leave, statutory right to employment security as well as female employee's statutory right to paid maternity leave. The study also aims to determine whether HR practitioners' level of knowledge concerning legislated employment rights differed significantly between age groups, years of experience, level of education and size of company. It also examined the nature of the relationship between the HR practitioners' level of basic knowledge concerning legislated employment rights and their level of concern in making legally sound decisions in their administrative practice. In addition, it identified whether the HR practitioners' level of basic knowledge pertaining to legislated employment rights correlate significantly with the size of the company where they are employed. Copyright © 2015 Penerbit Akademia Baru - All rights reserved.*

Keywords: Employment rights, Employment law, Employment legislation, Human Resource (HR) practitioner, Legal knowledge, Small and medium-sized enterprises (SMEs).

1.0 INTRODUCTION

The Employment Act 1955 (EA 1955) provides guidelines and clarification in setting terms and conditions for the workforce. It is one of the most important piece of labour legislations in Malaysia that provides workplace protection for both the employer and employee. Basically, the Act was designed to provide the legal framework for managing human resource at the workplace. It is intended to develop a basic contract of employment that can be enforced under statute. The laws are designed to advance the progress of industry by bringing about harmony and cordial relationship between the parties, to eradicate unfair labour practices and to protect employees against victimization by the employers.

2.0 LITERATURE REVIEW

In Malaysia, the EA 1955 is the key labour legislation that provides legislative framework that outlines the rights of the parties at the work place. It prescribes guidelines and set the minimum statutory terms and conditions for the workforce. For the growth of society and for socio-economic progress of a country, the importance of labour cannot be under-estimated.

The State realised that workers are an important asset to the country's growth; they deserve respect and fair treatment; their welfare should be taken care of and they should be protected against exploitation, victimisation and unfair labour practices.

However, employment laws which are designed to protect the employees from discriminatory and harmful actions [1] in the workplace are frequently written in vague language [2]-[3], lacking in clarity [4] and are highly ambiguous [5]. Many felt that the employment laws are complex [3], [6], difficult to apply [2], varied in implementation, and/or weakly enforced [3], resulting in the laws not necessarily yielding equality [7].

HR practitioners, who understand the employment law, are better prepared to manage the people and the organization, within the limits imposed by the legal system and thus they are less likely to be caught in lawsuits. However, numerous studies have confirmed that owner-managers view the law as one of the most important aspects of people management but one they have difficulty with [8] resulting in their failure to adhere even the most basic requirements of employment law. There continues to be evidence that many SMEs are ignorant [9], have poor knowledge [10] and do not understand or cannot cope with the details of the legislation [11]. For example, a survey conducted by Harris [6] revealed a high level of concern among owner-managers of smaller businesses about their ability to cope with the pace of change in employment law and considerable awareness of the importance of being up to date. Lovatt and Pratten [12] reported that micro businesses run by entrepreneurs have limited knowledge of the details of the law as they have received no formal training as compared to larger small firms [13]. This trend could lead to breaching and non-compliance with the law and regulations and thus could result in employees being exploited at the workplace and they are denied their statutory rights.

This phenomenon is also true in Malaysia where Maimunah [2] alleged that some employers do not provide any statutory benefits because they are ignorant of the requirements of the law. This allegation is supported by the Industrial Court in the case of *Kesatuan Pekerja-Pekerja Perakayuan v Syarikat Dara Lockwook (Pahang) Sdn. Bhd., Kuala Rompin* [14], where the Court acknowledged that employers often infringed on the provisions of the law because they only had vague and hazy ideas of management responsibilities towards the workers employed by them.

The consequences of wilful or innocent non-compliance of the law are severe. Employees are hindered from the rights granted by the statute and therefore suffer poor working conditions. Hence, the government's intention to create partnerships and to promote equality and fairness at the workplace would hardly be achieved.

3.0 OBJECTIVES

The purpose of this study was to assess the level of basic legal knowledge among Human Resource (HR) practitioners from the small and medium-sized enterprises (SMEs) pertaining to legislated employment rights at the workplace. The level of knowledge on the law exhibited by the HR practitioners has significant implications on the exercise of the legal rights in SMEs. There are many judicial precedents to support the legal maxim "ignorance of law is no excuse." The law is there to be followed; they are de facto and de jure to be implemented. Ignorance or poor comprehension of the law may result in employees being exploited and their rights being violated and denied. However, there has been a paucity of

evidence on HR practitioners' knowledge and understanding of this legislation at the domestic level, particularly in the SMEs. Since SMEs are considered to be the backbone of the industrial development in the country, there is no reason why these industries should be discarded in academic research.

The study also aims to determine whether small and medium-sized enterprise HR practitioners' level of knowledge concerning legislated employment rights differed significantly between age groups, years of experience, level of education and size of company. In addition, the research intends to discover whether the level of knowledge is related to HR practitioners' levels of concern in making legally sound decisions and whether HR practitioners' level of basic knowledge pertaining to legislated employment rights correlate significantly with the size of the company where they are employed.

4.0 METHODOLOGY

Self-administered questionnaire was used to collect quantitative data from HR practitioners or those in similar capacity from various SMEs. Forty-six items were designed to measure HR practitioners' level of basic knowledge pertaining to legislated employment rights and benefits at the workplace. These items were developed based on the provisions of the EA 1955. In order to interpret the level of knowledge, a 5-level scale was developed. For each item, the respondents were required to choose whether they believed the statement to be "positively false," "somewhat false" (I think it is false), "don't know" (if they actually did not know the correct answer), "somewhat true" (I think it is true), or "positively true." The respondents' level of basic knowledge is assessed based on their answers to these specific questions.

The respondent for this study comprises of HR practitioners working in SMEs in Johor Bahru. As many as 280 set of self-administered questionnaires were distributed to selected respondents listed in the sampling frame which represent small and medium-sized enterprises in Johor Bahru. However, only 85 sets of questionnaires were returned, constituting a return rate of 30%.

The data from the survey were analysed using Statistical Package for the Social Sciences (SPSS). The primary objective of the survey is to measure the respondents' level of basic knowledge pertaining to legislated employment rights and benefits at the workplace. This objective was answered by calculating the mean score of the variables. In order to interpret the level of basic knowledge possessed by the respondents, a 3-level scale based on the mean score was developed. High level (3.68-5.00) indicates the respondent has extensive knowledge on the provisions of the law with high confidence about details. Moderate level (2.34-3.67) indicates sound knowledge but with some uncertainty about details while low level (1.00-2.33) indicates inadequate or less knowledge on the provisions of the law. The data concerning the demographic characteristic of the respondents; and their level of concern relating to their ability when making legal decisions; was analysed using descriptive statistics and presented using simple frequency distributions and percentages.

Non-parametric techniques were adopted by using Kruskal-Wallis Test to compare mean differences in knowledge levels across age groups; education level; years of working experience and size of company. Meanwhile, Spearman Rank Order Correlation (Spearman rho) analysis was utilised to examine the nature of the relationship between knowledge scores

and size of company as well as knowledge scores and level of concern in making legally sound decisions.

5.0 RESULTS AND DISCUSSION

5.1 Demographic Profile

The survey responses were strongly dominated by female respondents comprising 64%; with only 36% males. The majority of respondents (59%) were above 30 years of age. The distribution of the respondents' age group is as follows; 27% were between the age-range of 30 to 39 years, 22% were between 40 to 49 years old and 9% were above 50 years old. The remaining 41% were below the age of 30 years old.

Table 1: Characteristics of the Respondents

| Characteristics | N | % |
|--|----------|----------|
| Sex | | |
| Male | 31 | 36.5 |
| Female | 54 | 63.5 |
| Age | | |
| Under 30 years | 35 | 41.2 |
| 30 to 39 years | 23 | 27.0 |
| 40 to 49 years | 19 | 22.4 |
| 50 years and above | 8 | 9.4 |
| Involvement in Employee Relations | | |
| Less than 5 years | 37 | 43.5 |
| 5 to 10 years | 27 | 31.8 |
| More than 10 years | 21 | 24.7 |
| Level of Education | | |
| SPM | 12 | 14.1 |
| STPM | 2 | 2.4 |
| Diploma | 22 | 25.9 |
| Bachelor's Degree | 49 | 57.6 |
| Present Position | | |
| Top Management | 8 | 9.4 |
| Managers | 16 | 18.8 |
| Assistant Manager | 12 | 14.1 |
| Executive | 21 | 24.7 |
| Officer | 28 | 33.0 |
| Type of Employer's Business | | |
| Manufacturing | 37 | 43.5 |
| Services/Trading | 40 | 47.1 |
| Property | 4 | 4.7 |
| Construction | 4 | 4.7 |
| Number of Employer's Workforce | | |
| Less than 5 employees | 4 | 4.7 |
| 5 to 20 employees | 20 | 23.5 |
| 21 to 49 employees | 10 | 11.8 |
| 50 to 100 employees | 5 | 5.9 |
| 101 to 150 employees | 46 | 54.1 |

Majority of the respondents (57%) were senior staff with more than 5 years of working experience in employee relations. Out of this percentage, 32% had 5 to 10 years of working experience and 25% had more than 10 years' experience in employee relations. Meanwhile, 43% of the respondents were young junior staff with less than five years' experience in employee relations.

As for the level of education, there seem to be quite a balanced distribution between those with bachelor's degree qualifications and those with diploma and school certificate qualifications. Nevertheless, the percentage of respondents with bachelor's degree was slightly higher (58%) compared to those with diploma and school certificate qualification (42%). Slightly more than half (58%) of the respondents possessed a bachelor's degree, 25% graduated with a diploma and 17% with a secondary school certificate. The degree and diploma earned are not only confined to the human resource discipline, but covers a wide range of discipline such as business administration, public administration and personnel management, finance, marketing, sociology, mass communication and economy.

Majority (58%) of the respondents who responded to the questionnaire and who deals with employment relations were human resource personnel/administration, administration executive and officers followed by human resource/administration managers and assistant managers (33%). Only 9% of the top management was involved in employment relations. This category consists of vice president, owner, managing director as well as administration and marketing director.

The companies in which the respondents were working comprised of a good range of small and medium-sized enterprises. 54% of the companies employed more than 100 but fewer than 150 employees, 6% employed 50-100 employees, 12% employed 21-49 employees, 23% employed 5-20 employees and 5% employed less than 5 employees. Nearly half (47%) of the companies were from the service and trading sectors, 44% were from the manufacturing sector, while the remaining 9% were from the construction and property sectors.

5.2 Level of Basic Knowledge

Table 2 presents the overall level of basic knowledge of legislated employment rights as well as the level of basic knowledge of specific employment rights possessed by the respondents. These floor of rights offered fundamental protection and benefits to employees from the private sectors. Overall, the results of the survey revealed a moderate level of basic knowledge possessed by the HR practitioners concerning statutory employment rights with a mean score of 3.65.

Table 2: Level of Basic Knowledge Concerning Legislated Employment Rights

| Statutory Employment Rights | Mean Score | Level of Knowledge |
|-------------------------------|-------------|--------------------|
| Hours of Work and Rest Breaks | 3.98 | High |
| Rest Day | 3.53 | Moderate |
| Paid Public Holidays | 3.30 | Moderate |
| Paid Annual Leave | 3.60 | Moderate |
| Paid Sick Leave | 3.73 | High |
| Maternity Protection | 3.82 | High |
| Wages | 3.81 | High |
| Scope of the EA 1955 | 3.44 | Moderate |
| Overall Mean Score | 3.65 | Moderate |

Looking at the specific employment rights, it was found that the respondents possessed a high level of basic knowledge concerning statutory rights to the general standard of working time

and rest breaks, statutory rights to paid sick leave, female employees' statutory rights to maternity protection and statutory rights to wages.

The respondents however reported to have a medium level of knowledge concerning statutory rights to weekly rest day, statutory rights to paid public holidays and statutory rights to paid annual leave. It was also found that the respondents' knowledge regarding the scope of application of the EA to determine the categories of employees protected by the said Act was also at a moderate level. Generally, this finding is consistent with Atkinson and Curtis's [8] findings whose respondents (comprising of management practitioners from SME's) claimed to be aware of the requirements of the British's Employment Relations Act 1999. Nevertheless, another previous study carried out by Blackburn and Hart [14] discovered low levels of awareness among micro-firms regarding employment rights. Such a finding was mirrored by a survey conducted Pratten and Lovatt [12]. Comparatively, this study however does not only focus on micro-firms but comprises a wide range of SME's covering micro, small as well as medium sized enterprises. One contributing factor to the moderate level of basic knowledge possessed may be due to the fact that majority of the respondents (60%) are attached with larger firms where they are exposed with training and continuous development programme provided by the firms. Another factor may relate to the level of education among the respondents who are mostly (54%) university graduates with bachelor's degree qualifications. Moreover, 57% are senior staff with more than 5 years of working experience in employee relations.

5.3 Differences in Level of Knowledge According to Demographic Characteristics

The following sections investigate whether the HR practitioners' level of knowledge concerning legislated employment rights differed significantly within age groups, level of education groups, tenure groups and size of company. In this study, it is assumed that:

- i. *H1*: There is a significant difference in the level of basic knowledge of the legislated employment rights across age level.
- ii. *H2*: There is a significant difference in the level of basic knowledge of the legislated employment rights across education level.
- iii. *H3*: There is a significant difference in the level of basic knowledge of the legislated employment rights across tenure level.
- iv. *H4*: There is a significant difference between knowledge levels and size of company.

Table 3 presents the difference in knowledge levels across four age levels. The Kruskal-Wallis Test revealed that the significance level was 0.14 which is more than the alpha level of 0.05. The results suggest that there is no significant difference in knowledge levels across the different age group. The output in Table 3 also suggests that there is no significant difference in knowledge levels across three different education level with $p=0.22$. Additionally there is no significant difference in knowledge levels across three different tenure level with $p=0.44$. This means that *H1*, *H2* and *H3* are rejected.

The result of the analysis however revealed a statistically significant difference in knowledge levels across four different size of company, $p=0.00$ which means that *H4* is accepted. Companies with fifty employees and above recorded the highest knowledge scores than the other three groups.

In general, the result from the Kruskal-Wallis Test suggested that statistically there is no significant difference in knowledge levels across the different age groups ($p=0.14$), education background groups ($p=0.22$) and tenure groups ($p=0.44$). This means that the respondents' age, education level and total years of working experience did not influence their level of knowledge. However, there is a statistically significant difference at $p=0.00$ in the knowledge levels across different size of company. This suggests that the size of company had an impact on the respondents' level of knowledge, proven empirically to be an influential factor contributing to knowledge development. The mean rank for the groups indicates that the medium-sized enterprises had the highest knowledge scores followed by the small-sized enterprises with micro-sized enterprises reporting the lowest knowledge score. In support of this finding, the result from the Spearman Rank Order Correlation (Spearman rho) analysis revealed that there was a strong positive correlation between the two variables, with high levels of knowledge associated with larger companies. The finding indicates that respondents from larger companies had greater knowledge than those who are in smaller companies. This finding concurs with the work of Blackburn and Hart [13] where it was found that level of awareness of the individual employment rights was raised with larger enterprises.

Table 3: Differences in Level of Basic Knowledge According To Demographic Characteristics

| Dependent Variable | Independent Variable | N | Mean Rank | Sig. |
|------------------------|--|-------|-----------|-------|
| Level of Knowledge | <u>Age</u> | | | |
| | Under 30 years | 35 | 36.76 | 0.147 |
| | 30 to 39 years | 23 | 46.67 | |
| | 40 to 49 years | 19 | 51.76 | |
| 50 years and above | 8 | 38.94 | | |
| Level of Knowledge | <u>Involvement in Employee Relations</u> | | | |
| | Less than 5 years | 37 | 40.55 | 0.447 |
| | 5 to 10 years | 27 | 41.80 | |
| More than 10 years | 21 | 48.86 | | |
| Level of Knowledge | <u>Level of Education</u> | | | |
| | School Certificate | 14 | 32.61 | 0.226 |
| | Diploma | 22 | 44.82 | |
| Bachelor's Degree | 49 | 45.15 | | |
| Level of Knowledge | <u>Size of Company</u> | | | |
| | Less than 5 employees | 4 | 19.38 | 0.000 |
| | 5 to 20 employees | 20 | 26.75 | |
| | 21 to 49 employees | 10 | 24.05 | |
| 50 employees and above | 51 | 54.94 | | |

*Significant at $p<0.05$; (n = 85)

5.4 Level of Concern in Making Legal Decisions

The data in Table 4 illustrate the self-assessed level of concern the respondents expressed relating to their ability to make legally sound decisions in their administrative practice. The findings revealed that majority of the respondents were concerned, to some degree, about their ability to make legally sound decisions in their administrative practice. 22% of the respondents were extremely concerned regarding their ability to make legally sound decisions in their administrative practice, 45% were reasonably concerned and 26% were fairly

concerned. Only 5% of the respondents expressed least concerned and 2% were not concerned at all regarding their ability in making legally sound decisions. This empirical evidence signifies that most respondents aspire to make right legal decisions in their administrative practice.

Table 4: Level of Concern in Making Legal Decisions

| Item | Not at all concerned | Least concerned | Fairly concerned | Reasonably concerned | Extremely concerned |
|---|----------------------|-----------------|------------------|----------------------|---------------------|
| How concerned are you about your ability to make legally sound decisions in your administrative practice? | 2 (2%) | 4 (5%) | 22 (26%) | 38 (45%) | 19 (22%) |

5.5 Relationship between Level of Knowledge and Level of Concern

This section is to determine the relationship between respondents' level of knowledge and their level of concern relating to their ability in making decisions. In this study, it is assumed that:

H5: There is a correlation between level of knowledge and level of concern relating to the ability in making legally sound decisions.

The non-parametric Spearman Rank Order Correlation (Spearman rho) analysis was utilised to test the hypothesis and examine the direction (positive or negative) and strength of the linear relationship between variables. Respondents level of knowledge was found to have a moderate positive significant correlation with their level of concern relating to their ability in making decision, $\rho=0.312$, $n=85$, with high levels of knowledge associated with high levels of concern. Since the significant value was less than 0.05 ($p=0.04$), hence hypothesis *H5* was accepted. The results, as shown in Table 5 clearly indicate that respondents with high level of knowledge are more concerned relating to their ability in making legally sound decisions in their administrative practice.

The nature and areas of the respondents' concern indicates the need for additional education in these areas. Accordingly, the implications of the result could lead to the mapping of distinctive target areas of concern for future professional development programme involving HR practitioners in SMEs. Decision-makers dealing with employee relations in organisations need to understand the legislated employment rights and the philosophy and spirit of these rights. Increased legal knowledge might help to lessen their concerns relating to their ability in making legal decision and would also enable them to make accurate and right decisions. In addition, an analysis was carried out to determine the relationship between the respondents' level of knowledge and the size of company where they are working. It is assumed that:

H6: There is a correlation between company size and level of knowledge.

The result shows that there was a strong, positive correlation between the two variables, $\rho=0.58$, $n=85$, $p<0.05$ ($p=0.00$), with high levels of knowledge associated with large companies. The finding indicates that respondents from larger companies possessed a significantly higher knowledge level than those who are in smaller companies.

Table 5: Correlation between Level of Knowledge and Level of Concern; Size of Company

| Dependent Variable | Independent Variable | N | <i>rho</i> | Sig. |
|---------------------------|-----------------------------|----------|-------------------|-------------|
| Level of Knowledge | Level of Concern | 85 | 0.312** | 0.04 |
| Level of Knowledge | Size of Company | 85 | 0.580** | 0.00 |

** Correlation is significant at the 0.05 level (2-tailed)

6.0 CONCLUSION

The key objective of this empirically based research was to assess the basic knowledge among HR practitioners in SMEs concerning legislated employment rights at the workplace. Clear understanding of the basic law enhances HR practitioners' ability to make valid and justifiable decisions regarding workplace rights and thus avoid unnecessary litigations. The empirical data demonstrate that the HR practitioners in this study have moderate levels of knowledge of the overall legislated employment rights and benefits. Generally, their level of knowledge is similar based on their demographic character namely age, level of education and involvement in employees' relations except for the companies' size. It was discovered that larger companies have higher knowledge of the matters studied compared to smaller companies. Consequently, the higher their level of knowledge the higher is their concern relating to their ability in making legally sound decisions. This result indicates that knowledge has significant impact on practitioners to respond effectively in matters dealing with workplace legal issues.

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