

Industrial Relations in Malaysia: Some Proposals for Reform

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Abstract

As Malaysia attempts to transform towards greater capital and technology based industries, all parties are questioning the appropriateness of their current labor laws. This paper considers options for change within Malaysia's industrial relations not only in terms of the legislation but also in the practices of the three players: employers, unions and the state. While some changes to the legislation are necessary, legislative change alone will not achieve the high performance workplace relations necessary for Malaysia's development. The paper outlines a conceptual framework for the type of industrial relations necessary for Malaysia's development and explains how this might be applied to Malaysia.

Introduction

The Malaysian government is seeking to develop new human resource and industrial relations policies which will support its goal of achieving developed nation status by 2020, as part of its

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"Vision 2020" (Malaysia, 2001a). The creation of a knowledge-based economy (*k-economy*) is regarded as essential to ensure that Malaysia moves into higher value-added production, becomes more innovative, develops and markets new products and provides the foundation for endogenously-driven growth (Malaysia, 2001b). The current system of industrial relations (IR) and labor law, however, is seen as a barrier to achieving these objectives. Yet there are differences of view among participants in the industrial relations system as to the changes which are needed. Employers are seeking to reduce legislated protection for workers and to introduce greater labor market flexibility. Unions argue that restrictions on their right to organize and collectively bargain should be lifted and that the safety net for workers should be strengthened. The government is reluctant to relax its extensive controls over both labor and management. Yet it is apparent that a highly restrictive approach to the labor market and industrial relations contradicts key aspects of the knowledge economy model which emphasizes the exercise of initiative and creativity in the workplace.

This paper argues that the prevailing "high control" approach by government and employers to industrial relations in Malaysia is not conducive to the facilitation of the *k-economy*. It proposes a number of fundamental reforms of the Malaysian industrial relations system which would complement the economic reform program in Vision 2020 and considers how the barriers to such changes might be overcome. These changes would require a transformation of the current industrial relations system in Malaysia. This paper takes the "transformation model" of industrial relations developed by Kochan, Katz and McKenzie (1986) as a starting point but argues that the strategic choices facing the industrial relations parties in Malaysia are different from those outlined by Kochan et al. in relation to the United States. The paper also builds upon the later work of Kochan in relation to Asian economies (in Verma, et al., 1995) to argue for more comprehensive changes in the Malaysian system leading to a "high commitment/high performance" model of industrial relations appropriate to a "knowledge economy."

The data for this paper was gathered from:

- a review of the existing literature on IR in Malaysia;
- a series of 13 semi-structured interviews with representatives of government, employer associations, unions and an academic expert, conducted in January 2003;
- Government documents relating to IR and economic policy.

Context for Change

The Economy

The Malaysian government's goal of achieving developed nation status by 2020 (Vision 2020) is well known. The government indicated in its *Third Outline Perspective Plan: 2001-2010*, that it envisaged "the knowledge-based economy will provide the platform to sustain a rapid rate of economic growth and enhance international competitiveness so as to achieve the objectives of Vision 2020" (Malaysia, 2001a,119). More recently the Prime Minister, Datuk Seri Abdullah Badawi, described the changes in transformational terms:

In order to achieve greater success, there must be a transformation in the way we do things...The out dated work systems and legislation need to be revamped and a positive culture inculcated to improve competitiveness and position Malaysia to be at par with the developed countries. (Abdullah Badawi, 2004)

The Malaysian government is seeking to develop new strategies to ensure its competitiveness within the region. Malaysia faces challenges from rapidly developing economies—in particular, China—not only in terms of their existing comparative advantage in some areas of manufacturing but also in terms of such economies utilizing knowledge economy strategies to move into higher value-added production. The k-economy is seen as a critical change to the basis of Malaysia's competitiveness and the means to provide well-remunerated quality jobs for Malaysia's workforce. The proposed development of the k-economy is being accompanied by rhetoric extolling the need for a multiskilled workforce, willing to engage in lifelong learning, capable of exercising their initiative and creativity in the workplace. This has implications not only to Malaysia's education and training policies but also to IR policy for the current "high control" IR approach is unlikely to be conducive to more highly educated and skilled employees applying their knowledge in an innovative way. It is much more likely that knowledge workers will deliver high levels of performance in an environment where they receive information about their tasks, consulted by their supervisors, and are able to influence workplace decisions.

The Evolution of Malaysia's Industrial Relations

Malaysia's IR has been characterized by extensive state control guaranteeing a high level of managerial prerogative within the workplace, minimal reported conflict, and very little bargaining power for labor (Suhanah, 2002; Arudsothy & Littler, 1993; Ariffin, 1997; Jomo & Todd, 1994). Employers in Malaysia exercise a very high level of control in the workplace and this is rarely challenged by employees. This reflects past practice and the imbalance of power between labor and capital in Malaysia. The labor laws and their administration are very supportive of managerial prerogative but are often considered to be inadequate in their protection of labor's rights and interests (Suhanah, 2002).

Malaysia's economic development has influenced the nature of its IR. During the Colonial period and subsequently during Malaysia's industrialization era, economic development was predicated on a cheap labor policy. The claim to have relatively low wages and well-disciplined labor has been a critical factor in the marketing of Malaysia to potential investors. During both Colonial and post-Colonial times a plentiful supply of low cost labor has been ensured by the use of migrant labor. This has restrained the upward pressure on wage levels for unskilled labor, enabling low wage industries to continue to prosper and giving little incentive to companies to move towards higher wage high-productivity strategies.

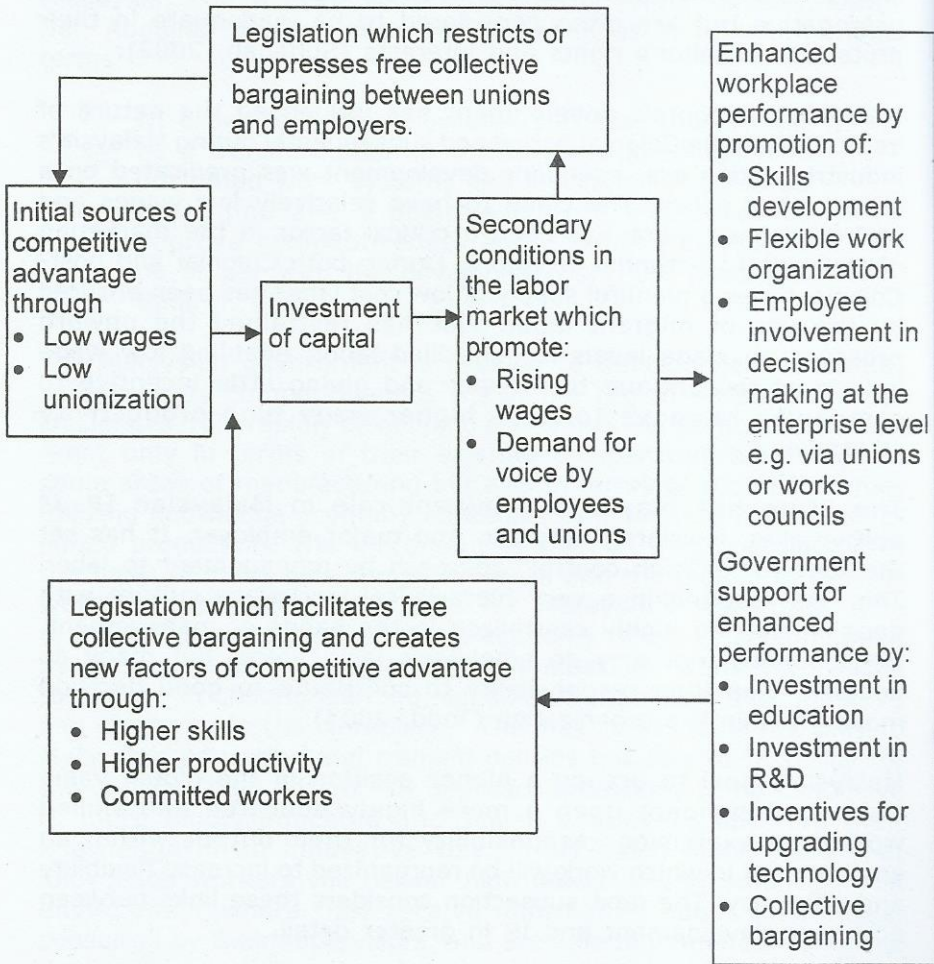
The State has played a dominant role in Malaysian IR as policymaker, legislator, enforcer, and major employer. It has set the tone for a "high control" approach by management to labor. This has resulted in a very hierarchical workplace culture with decision making highly centralized in the hands of management. Consequently, not only do employees lack "voice" but many do not see it as their responsibility to contribute to good decision making within the organization (Todd, 2002).

Malaysia's goal to occupy a higher position in the global value chain is dependent upon a more highly educated and skilled workforce exercising responsibility for their output within an environment in which work will be reorganized to increase flexibility and efficiency. The next subsection considers these links between economic development and IR in greater detail.

Proposals for Reform

The following model, which seeks to demonstrate the links between workplace performance, human resource development policies and employment relations legislation, is pertinent to the choices facing Malaysia at this point in its development process.

Figure 1: Linkages between workplace performance, human resource development and the legal framework governing employment relations



Source: Adapted from Verma, Kochan & Lansbury (1995, 352).

The linkages may be elaborated as follows. A less developed country begins the process of industrialization by creating some initial conditions which are conducive to investment. In IR terms this may include low wages and low unionization. This attracts initial investment as businesses can raise profits by taking advantage of the low wages and lack of employee rights. As investment increases over time, however, the initial labor market conditions inevitably change. There are pressures on wages to rise as there are growing demands for employee voice and representation.

The result of secondary conditions developing in the labor market may be to reduce the initial advantage that attracted new investment in the first place. The secondary conditions present the state with a strategic choice in the development process. The first option is to undertake a series of measures that will maintain the advantages of the initial conditions. These policies may include the imposition by government of controls over wage increases, severe restrictions on unions, and strict limitations on collective bargaining. The second option is to adapt to the secondary conditions whereby the state permits the operation of unions and collective bargaining while also investing in human capital by upgrading skills and expanding education and training. At the enterprise level, encouragement is given to employee involvement in decision making, flexible work organization and skills development. This creates a virtuous cycle in which businesses increase their value-added production which makes them more profitable and, hence, able to pay higher wages to their workers. Although the two responses to secondary conditions in the labor market (shown in Figure 1) may appear to be alternatives, governments may choose to follow policies which incorporate elements of both.

Malaysia's goals of high levels of workplace performance by knowledgeable and skilled employees capable of innovation and being adaptable to change match the outcomes listed in Figure 1, that is, "Higher Skills, Higher Productivity, Committed Workers." In the model, these outcomes are achieved when the State and employers adapt to secondary conditions in the labor market, rather than suppressing them.

The industrial relations literature (e.g. Kochan, Katz & McKersie, 1986; Appelbaum & Batt, 1994; Piore & Sabel, 1984) would suggest that the type of IR that would accompany such a development would include the following:

- mutual commitment between management and workers reflected in employment security, employee involvement in decision making, cooperative labor relations, equal opportunity, high safety standards,
- the provision of ongoing targeted training;
- flexible work organization whereby multiskilled employees are grouped into semi-autonomous work teams moving between tasks.

This contrasts with the "old IR" that accompanied labor-intensive mass production; that is low wage, highly controlled de-skilled labor allocated to a single task; centralized decision making by management; and limited investment in occupational health, safety and training. Malaysia's IR still reflects much of the old IR although some employers are embracing aspects of the "new IR." While some employers are increasing their labor efficiency by investing in training as well as implementing multiskilling and work teams, many others continue to rely on cost-cutting strategies to be competitive. The latter group focus on minimizing labor costs in terms of wages and conditions, training, and aspects of health and safety. One critical aspect of the new IR which shows little sign of being embraced by Malaysian employers is the issue of control in the workplace. There is little evidence of genuine employee participation in decision making as employers prefer to retain their high levels of managerial prerogative. Yet the concept of a highly committed "thinking" workforce, responsive to change and capable of innovation is dependent upon employee participation in the decision making process for it is this that will generate employee commitment to the organization's development and success (Lansbury & Wailes, 2004).

In considering the strategic choice facing Malaysia in its IR, it is appropriate to reflect on the strategic choice literature, particularly the seminal work of Kochan et al. (1986). In their study of the transformation of industrial relations in the United States, they argued that the heart of this transformation was a fundamental change in the strategic choices made by US managers about firm-level employment relations practices. They used a matrix to encompass three levels of decision making and three parties (employers, unions and government). However, unlike Malaysia where the government plays a very influential role in strategic decision making concerning industrial relations, Kochan et al. highlighted the emerging dominance of employers and the declining influence of both government and unions in the US. The Verma

et al. (1995) model better reflects the dominant role that the state plays in IR in Malaysia and many other developing countries and the need, therefore, for the state to be a leading actor in the change process. It should, however, be noted that the Kochan et al. matrix emphasized the importance of government involving both employers and unions in strategic decisions if proposed changes in the industrial relations system are to gain broader support and commitment from the industrial relations parties, a point of relevance to Malaysia.

Let us now consider in greater detail the changes needed in Malaysian IR, in line with the model outlined above, to facilitate the development of the k-economy. We will focus on the four employment relations aspects that the model advocates that the state and employers need to act on in adapting to the secondary conditions in the labor market in order to achieve the competitive advantage they are seeking: skill development, flexible work organization, employee involvement in decision making, and collective bargaining. The latter two encompass the fundamental philosophy underpinning an IR system so it would be appropriate to begin with them.

Employee Involvement in Decision-making at the Enterprise Level

Malaysia's IR has been characterized by a high level of managerial prerogative within the workplace and very little bargaining power for labor. This perpetuates the practice of management unilaterally deciding on matters relating to employment and the work process, contrary to the employee participation practices generally associated with prescriptions for high quality performance in contemporary workplaces. It also stifles the potential to encourage a more committed approach from labor in which employees would be able to be more responsible for their workplace behavior and take more initiative in responding to changing circumstances. The proposed development of the k-economy challenges traditional decision making practices for unless "the thinking and the doing" are integrated it is difficult to envisage the desired achievement of employees becoming innovative, exercising their own initiative and thereby becoming more self-motivated.

Historically, the concept of employee participation is not without precedent in Malaysia. In 1975 the "Code of Conduct for Industrial Harmony and Areas for Cooperation and Agreed Industrial Relations

Practices" included a commitment by employers to establish regular consultative arrangements with employees and unions at the enterprise level. However, as there was no legislative foundation for joint consultation and work committees, little activity of this nature has occurred in Malaysia.

In furthering employee participation Malaysia can look to the works councils concept long established in Germany and more recently within the European Union. Within the Asian region various forms of labor-management councils, joint consultation committees and work councils have also been established, including the Labor-Management Council (LMC) system in South Korea. Like work councils in the German system, the Korean LMC does not replace collective bargaining but is designed to consult on matters concerning the improvement of productivity, the handling of workers' grievances and labor-management cooperation. The employer is required to report to the LMC on a wide range of matters including quarterly economic, financial and production results and human resource issues. There are also matters over which the LMC has powers of co-determination, including: the establishment of programs for vocational training and development of employees, the establishment and administration of welfare funds, and matters not resolved by the grievance handling committee.

Finally, it should be noted that the nature of IR in Malaysia, whereby management assumes a high level of control and employees have been conditioned to expect this, is antithetical to employee participation. It explains why there have been so few genuine examples of employee involvement in decision making in Malaysian workplaces previously. Thus a more balanced collaborative relationship needs to be developed between labor and management in Malaysia. This requires major changes in the expectations and behavior of both parties but, particularly, on the part of management. In turn, this requires changes in the labor laws and their implementation to enable labor's voice to be heard in the workplace.

Collective Bargaining

Collectivism has long been regarded as the main vehicle for achieving more balance in the employment relationship, and unions as the vehicle to provide an effective voice for labor. Despite a legal framework that purports to enable workers to form unions

and engage in collective bargaining, the basic thrust has been to curtail union activities and favor managerial unilateralism.

The current position of organized labor in Malaysia is very weak. In 2002 there were 581 unions with a total membership of 807,802 amounting to approximately nine percent of employees (Malaysia, Ministry of Human Resources, 2003). Legislation restricts the activities of unions via regulations on union recognition, bargaining rights, the taking of industrial action and political activities (Kuruville, 1993). Union size and structure is heavily regulated through laws administered by the Director General of Trade Unions (DGTU); unions may not operate across industries, and industries are narrowly defined to minimize union reach and size (Arudsothy & Littler, 1993). There is, therefore, a proliferation of small unions.

There is evidence of an array of tactics being utilized by employers to prevent unionization of their workplaces including indefinitely delaying union recognition applications; victimization or promotion of activists to remove them from the shopfloor; and the formation of company-sponsored unions (Anantaraman, 2002; Ariffin, 1997; Bhopal 1997; Jomo & Todd, 1994; Kuruville & Arudsothy, 1995; Wad, 2001).

The Industrial Relations Act greatly restricts the role of unions in collective bargaining by excluding items from bargaining which are deemed to be managerial prerogative. Furthermore, the Promotion of Investments Act 1986 prohibits workers in "pioneer" industries from negotiating working conditions more favorable than the minimum standards embodied in the Employment Act. Neither is collective bargaining allowed to occur in the public sector. By restricting the operation of unions in the public sector as well as growth areas of the economy, the government prevents collective agreements from benefiting many workers.

In order to create the foundation for a more balanced relationship in the workplace, the state needs to encourage employers to recognize and work with unions in their workplaces. The first step to achieve this would be the ratification of ILO Convention 97 concerning the Freedom of Association and Protection of the Right to Organize; this would need to be accompanied by a regulatory environment supportive of independent unions. This would require substantial changes to the existing labor laws and their administration including the encouragement by the DGTU of the formation of unions by interpreting "industry" and "similar industries" more liberally, the prevention of the proliferation of

small unions by registering in-house groups as sub-branches of relevant industry unions rather than as separate free standing unions, the granting to public sector employees the same right to belong to a trade union as employees in the private sector, and the implementation of an appropriate time limit (e.g. 21 days) on the decision making process by the Director General and the Minister when trade union recognition issues are referred to them to ensure timely resolution of recognition disputes. Logically, such regulatory change would include major revision of the collective bargaining provisions to enable unions to negotiate on behalf of workers.

In summary, government recognition of the legitimate role for unions in representing labor's interests and legislative protection for workers against anti-union discrimination are policy directions which require consideration in pursuit of improved economic performance.

Skill Development and Flexible Work Organisation

The Malaysian Government recognized the need to accelerate the level of skill development when it introduced the Human Resources Development Fund in 1992, a levy-rebate system providing incentives to employers to undertake employee training. The identification of the skill development needed to facilitate Malaysia's economic development, and more specifically the k-economy, is worthy of another paper in itself. Thus while reiterating the clear need for widespread training associated with the economic development process in Malaysia we will comment at this point on the training necessary to achieve the advocated changes in IR. Such changes will necessitate substantial training within the Ministry of HR, management, unions, and among employees.

To achieve the changes, the state will play a vital role both in developing appropriate policies and legislation and in persuading employers to change their management style. Thus, employees in the HR Department will need intensive training not only in the detail of such practices as employee participation but more broadly about the nature of commitment-oriented IR systems.

Management will play a critical role determining the style of IR within their workplace, thus, programs to lift levels of understanding and skill in relation to people management are essential. This should include learning about different IR and HRM models as well

as focusing on more inclusive and decentralized styles of organizational leadership.

Employees and union officials also need to be trained, for example, in relation to employee participation schemes and the *implementation of team-based work*. *Collectively bargained agreements may be used as vehicles to highlight the importance of training and provide incentives to reward increased training*. In addition, employees and unions may well develop their own training regimes which may supplement the training being developed (Lansbury & Pickersgill, 2002).

The introduction of flexible work organisation whereby multiskilled employees are grouped into semi-autonomous work teams moving between tasks and taking collective responsibility for their work is a critical component of a high performance workplace. It should achieve efficiencies in production as well as potentially improve the quality of the goods or services produced. It also offers potential benefits to employees of more interesting work, involving the learning of new skills, the possibility of greater responsibility for one's work, and improved remuneration prospects. The introduction of such changes should be a collaborative process between management and labor to avoid potential resistance to change. Employees need to be well informed and, where necessary, provided with training to participate in the change process.

There is evidence of some employers introducing more modern management techniques to Malaysian workplaces, particularly among the larger companies. There has, for example, been considerable restructuring of the production processes within the electronics industry to increase flexibility and efficiency. New methods of work organization, inventory management and quality control have been introduced, the team concept of production is being used in some plants, multiskilling is more prevalent, and the working week made more flexible in some workplaces to match the needs of production (O'Connor, 1993; Kuruvilla & Arudsothy, 1996; Abdullah, 1994). This transition, however, is far from being the norm; in many companies the production process remains primitive, with operators performing a single task repetitively (Peetz & Todd 2000).

The changes needed to achieve more flexible work organization are intertwined with the concept of employee participation and, again, need to be addressed through management training.

Can These Changes Occur?

We have advocated in this paper that Malaysia needs to embrace a high performance model of IR involving a more balanced collaborative relationship between employers and employees, the ongoing provision of training, and flexible work organisation. This would involve an enormous change of philosophy and practice in most Malaysian workplaces from the current high control approach. This model would facilitate the development of an appropriate workforce and work environment for the k-economy. It would also meet many of organized labor's long-standing demands to increase their ability to exercise influence in the workplace. While it would give labour the tools to be more responsible for their own well-being and much less dependent on state and capital's paternalism—as desired by employers—such a model would clearly not satisfy the employers' drive for greater control over labor.

Ideally the initiative for such transformation should emanate from the workplace. This would require a significant change of philosophy for most managers in Malaysia and there is no evidence to suggest that they would be easily persuaded. To the contrary, management are arguing the need for greater control over labor to be able to manage labor more flexibly and thereby increase Malaysia's competitiveness internationally. At the same time, labor is not well organized and, therefore, is poorly placed to pursue its desired agenda.

Thus, this change would need to be driven primarily by the government, if it is to occur. It will require new labor legislation and new policies to be implemented strongly by the government. This, in turn, would require a revamped Ministry of HR with far greater skills and political influence than displayed currently. When one considers the broader economic and political context, however, such changes would present considerable challenges to the current power structure.

While the recent change in leadership has, in some quarters, given rise to hope for greater liberalization in Malaysia, there is nothing to suggest a move to reduce the controls over labor. The political elite have used labor laws to control labor and deter labor organizing politically. The changes proposed here to workplace regulation would inevitably run counter to this labor control strategy.

Economically, one has to consider how pervasive the k-economy is likely to be, given that its development is the principle motivator for the government's reconsideration of its labor regulation policies. The occupations most likely to be critical to the k-economy are the professional, technical, and managerial categories; these will be the workers who are required to be appropriately trained and capable of exercising their own initiative. Yet these groups are estimated to constitute only 17% of the workforce by 2005 (Malaysia, 2001, Table 4-2). One might anticipate more enlightened management practices at the heart of the k-economy, at the very least to ensure retention of valuable employees, but it is difficult to see IR in such sectors as manufacturing and agriculture changing unless the majority of low value-added, labor intensive operations are replaced by capital-intensive, value-added functions.

Conclusion

The Malaysian Government is aiming to achieve substantial change in the Malaysian economy, requiring transformation in their current IR policies and practices. Employers, unions and government are all questioning the suitability of the current IR regulatory arrangements in Malaysia. Not surprisingly, their agendas differ. We have outlined a model of high commitment and high performance industrial relations for Malaysia based on the development of workplace relations in which a high control approach is replaced by mutual commitment between management and workers. This will require a transformation of industrial relations which requires a partnership or cooperative approach between the unions, employers and government, rather than a dominant role being played by one party over the others. The model also assumes the provision of ongoing training and the reorganization of work along more flexible lines to enable maximum efficiency to be achieved. As indicated in the discussion, these changes are intertwined and need to be adopted as a package to achieve the desired changes. We view this model as more appropriate to advance Malaysia's economic development and to enable fairer outcomes at the workplace level.

While these proposed changes would involve fundamental change in the strategic choices made by managers in Malaysia about firm-level IR practices—in line with Kochan et al's 1986 thesis that it was the employers who drove the changes—we argue that employers are unlikely to choose this route without guidance

from the government that this would be their preferred style of IR for Malaysia. The enhanced role for employees and their representative bodies, envisaged in our proposal, is more in accordance with the Verma et al. (1995) model than Kochan et al's 1986 seminal work as the former reflects the low level of input employee bodies have in the workplace in most East Asian countries currently.

Employers may reject the greater opportunity such a model provides for labor to participate in decision making in the workplace, and therefore to exercise greater control; however, we would suggest that they need to reflect more broadly on how they intend to increase their employees' productivity. The Malaysian Government would appear unlikely to accede to the employers' demands for increased flexibility as such reforms would impact on employees' job and income security; the government has previously rejected a deregulated labor market approach and has provided a degree of ongoing protection for labor to discourage labor from becoming politically active. Thus, employers may need to consider alternative strategies to increase employee productivity such as this model which encourages a more committed approach from labor and enables employees to be more responsive to workplace change.

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