

A Framework for Malaysian Construction Industry Young Professionals (CIYPs) Contractual Employment Contract: A Conceptual Paper

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Abstract

As the construction industry is important to the Malaysian economy, employment issue should be managed accordingly. However, there is lack of employment protection under the Malaysian employment legislation for employees with earnings of RM 2,000–RM 5,000 (USD 486–USD 1,213) per month and are also categorised as the young professionals. Even with additional jurisdiction given to the Director General of Labour, the minimum protection is not mandatory to be imposed, hence resulting in unfair employment practices. This paper aims to propose the conceptual framework for future study. This study adopts the approach in reviewing literatures to confirm the findings from preliminary interviews conducted with the labour officers from the Department of Labour (DoL) of Peninsular Malaysia. It is confirmed that the fairness element in employment can be achieved through roles played by the organisations and supports given from policymakers. The finding encourages good employment practices with fairness element as the focal point that benefits the industry and policymakers.

Keywords: Construction employment; Young professionals

1. Introduction

Malaysia's construction industry is among the highest Gross Domestic Product (GDP) contributors with RM 194 billion (USD 47 billion) of contributions during the 10th Malaysian Plan [1]. In the 11th Malaysia Plan, the investments in road, rail, air services, and water/sewerage networks to meet the nation's strategic thrusts are believed to require high number of employees. Due to that, the projection of employees in the year 2020 will increase by 10.96% to a total of 152,920,000 (overall employees) with 8% or 12,597,000 are the construction employees [2].

The construction industry is complex in nature, involving a large group of employees with various backgrounds and knowledge [3]. It also includes general and specialised building and civil engineering construction skills [4][5][6]. A successful construction project should be completed within the stipulated time and budget allocated, and in accordance with the owner's satisfaction which one may relates to competent project team [7] which includes the young professionals.

Young professionals are defined as the professional employees with less than five years of experience, regardless of age [8]. For this research, the young professionals refer to a group of employees working with private construction organisations located in Peninsular Malaysia earning RM 2,000–RM 5,000 or USD 486–

USD 1,213 monthly, and subjected to the jurisdiction of Section 69B, Act 265.

There is high number of young professionals who registered as the graduate members of Malaysian construction professional bodies as shown in Table 1. Majority of the young professionals represent about half of the total members of each professional body. This representation shows that the future of the industry depends on this group of employees. Thus, it is important to conserve the industry's beneficiary in order to maintain its compatibility in the competitive market.

Based on Fig. 1, the pattern of labour court cases has increased for a period of 9 years with 14,003 cases from the construction industry and 1,264 cases specifically involving CIYPs who are partly covered under the Employment Act 1955 Amendment 2012 (Act 265) [9].

As the young professionals are part of the team, their retention should be considered in the organisations' Human Resource Management (HRM) practices [10] in order to stay competitive in the market and continuously contribution to the economy. However, the protection of young professionals under Malaysian employment legislations is limited to the terms and conditions agreed previously in the employment contract without compulsory benefits being imposed, thus leading to unfair employment practices [9].

Table 1: Graduate Members of the Malaysian Construction Industry Professional Bodies

Construction Professional Bodies	No. of Members	Graduate Member	
		No.	%
Board of Architects Malaysia	4,358	2,233	51%

Board of Engineers Malaysia	79,507	60,365	76%
Board of Quantity Surveyors Malaysia	4,543	1,935	43%



Fig. 1: Malaysia Labour Court Cases, 2007-2015
Source: Department of Labour Peninsular Malaysia, 20

2. Governing Laws for Employment Issues in Malaysia

Employment regulatory in Malaysia is governed by laws and regulations under the administrative of Ministry of Human Resource Malaysia. Two aspects arranged to manage employment issues such as the employment benefits and industrial relations. Additionally, the coverage of employment regulatory differed by the location and regulatory framework jurisdiction as shown in Table 2. There are employment governing laws at the national level such as Act 159, Act 195, Act 796, Act 246, Act 446, Act 670, Act 262, and Act 177 in order to ease the administrative issues. As Malaysia is a multi-cultural country and different economic situations, the government has taken necessary steps to avoid unwanted circumstances by arranging the Acts to be applied by the states.

3. Human Resource Management (HRM) in Relation with Employment Issues in Construction Organisation

Human Resource Management (HRM) is defined as a system used to attracts, develops, motivates, and retains employees in achieving the organisation’s objectives [11] which covers the work and people [12] by considering the organisations and employees’ need [13]. It includes five (5) major mechanisms which are selection/recruitment, training, compensation, performance appraisal, and employees’ participation [13]. Unpredictable event such as long working hours, synonym with the construction industry is one of the regularly experienced employment issues [14]. It can be prevented by implementing effective HRM in the organisations [15][16][17][18][19]. Undoubtedly, HRM policies and practices are important in the construction organisations [20][21][22][23].

However, this aspect has less priority compared to other subject in the construction project management area due to various backgrounds, the need to work in teams [21], and the organisations’ turnover effect [24].

4. Implementation of Industrial Relations and Labour Standards

Work-life issues such as family-related matters, health and safety issues, and sleeping problems are often highlighted as the consequences of construction industry related to long working hours [25][26][27][28]). To overcome this problem, the employees should negotiate on the terms and conditions stated in the employment contract that bind both parties’ relationship. Forming trade unions is among the possible solutions as better employment contract terms and conditions can be negotiated through Collective Agreement (CA). According to Section 2, Industrial Relation Act 1967 [29]“... [C]ollective agreement means an agreement in writing concluded between an employer or a trade union of employers on the one hand and a trade union of workmen on the other relating to the terms and conditions of employment and work of workmen or concerning relations between such parties.” The CA negotiating process will go through recognition process from respective bodies (such as the Industrial Court in Malaysia and the Australian Industrial Relations Commission in Australia) to imply fairness into the employment contract. Obviously, for non-members and employees without a trade union, the power of control throughout the negotiating process is through the employers [30] and thus, can result in unfair terms and conditions due to lack of employees’ power. Additionally, the Director-General of Labour (DG) of Peninsular Malaysia’s is given the power to inquire about complaints as mentioned clearly under Section 69 of Act 265. The employees earning lesser than RM 2,000 per month (under the interpretation of Section 2) and manual workers as well as any other employees stated in the First Schedule of Act 265 are fully

Table 2: Employment Regulatory Framework in Malaysia

Employment Aspect	Employment Regulatory Framework	Coverage
Employment Benefits & Terms and Conditions of Employment	National Wages Councils Act 1947 (Act 195)	Malaysia
	Employment Information Act 1953 (Act 159)	
	Employment Restriction Act 1968 (Act 796)	
	Private Employment Agencies 1981 (Act 246)	
	Workers Minimum Standards of Housing and Amenities Act 1990 (Act 446)	
	Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (Act 670)	
	Weekly Holiday Act 1950 (Act 220)	Peninsular Malaysia
	Holiday Act 1951 (Act 369)	
	Employment Act 1955 (Act 265)	
	Children and Young Persons (Employment) Act 1966 (Act 350)	Sarawak
Labour Ordinance Sarawak		
Public Holidays Ordinance (Sarawak) Cap. 8	Sabah	
Labour Ordinance Sabah		
Holidays Ordinance (Sabah) Cap. 56	Malaysia	
Trade Union Act 1959 (Act 262)		
Industrial Relations	Industrial Relation Act 1967 (Act 177)	

protected.

Consequently, the young professionals subjected to the jurisdiction of Section 69B are protected for maternity clauses and procedures related to complaints, inquiry, and summons services with limited power of the DG under Section 69B on issues related to terms and conditions in the agreed employment contract and part of minimum benefits. Limitation to the power of the DG are clearly described in *Leighton vs Gnanapragasam*. Thus, the need for fair terms and conditions in the employment contract is important to reduce employment issues.

An International Labour Organization (ILO) is the international body responsible in managing employment matters. Among the responsibilities are the formulation of labour standards and conventions supported by monitoring the implementation. Both are the matters being discussed in yearly meeting known as International Labour Convention (ILC).

As mentioned earlier, employment in Malaysia is governed by laws and regulations. However, the source of employment protection conceals under the employment benefits regulatory framework through the governing act such as Act 265, Labour Ordinance of Sabah, and Labour Ordinance of Sarawak. These frameworks are drafted and amended based on the labour standards and conventions as agreed in the ILC.

A survey carried out in 2015 revealed that 14% of the respondents (102 respondents) urged for welfare improvement including benefits, insurance, medical, and basic salary [31]. However, the construction industry is generally lacking of labour standards implementation [32] and rectified ILO convention [15]. Other highlights are employment practices and industrial elements [23] that seems impracticable with the two regulatory frameworks in Malaysia that are outlined for employees who are protected under Act 265 in meeting the labour standard, i.e., Minimum Standards of

Foreign Workers Accommodation Guideline and Temporary Construction Site Workers' Amenities and Accommodation Code of Practice. However, there are no such benefits for CIYPs and thus leading to employment disputes. Thus, this paper is intended to propose the conceptual framework to be used as a platform for future research. For that purpose, the next section will elaborate on the methodology, findings, the proposed conceptual research framework and direction for future study.

5. Methodology

For this paper, a thorough literature review on articles from the year 1992 to 2017 was conducted to gather related findings using reasonable keywords. Another method used was preliminary interviews with three labour officers with 3–10 years of experience as labour court hearing officers. The interviews conducted at the Department of Labour (DoL) Peninsular Malaysia headquarters in Putrajaya, Malaysia were completed in March 2017.

6. Findings

It is concluded that the research area requires further exploration in term of fairness of employment especially on the minimum terms and conditions as part of the content in employment contract. The employment disputes in the construction organisations can be reduced or avoided by considering HRM, fair employment contract, and labour standards. Table 3 proves that there is lack of study on the research area. The issue is further supported by the findings from preliminary interviews on lack of protection under employment legislations.

Table 3: Previous research on employment issues in construction industry

Element	Locality	Authors	Research Focus	Key Findings
Human resource practice in construction organisations	Malaysia	Alaghbari, Kadir, Salim & Ernawati, 2007	Factors causing delay of construction projects	Site management, labour and subcontractor skills require further improvement to reduce possibility of delay in construction project.
		Ismail & Ibrahim 2008	Career progression issue among women	Family commitment identified as women major career progression barrier regardless of position they hold.
		Zolkafli, Hanid & Zakaria 2009	Construction workers' performance	The need for motivating factors and fairness element to improve employees' performance.
		Osman, Ho & Galang 2011	Organizational performance	Organisational performance requires implementation of human resource practice, employee relations and communication, career planning and job design.
		Long, Ajabge & Kowang 2013	Issue on employees' turnover intention	Skilled employees' retention could be arranged with human resource management (HRM) implementation.
		Zumrah, Khalid, Mokhtar & Alid 2016	Employees motivation	Employee motivation in respect of knowledge improvement and knowledge sharing behaviour is influenced by HRM practice.
		CIDB Malaysia 2016	Public perception survey on construction industry	14% responds (102 respondents) require welfare improvement in terms of benefits, insurance, medical and basic salary.
		Mohamed, Abuazoom, Hanafi & Ahmad 2017	HRM Practices on Project Performance	Project performance improvement through the implementation of Human Resources Management in the organisations.
		Department of Labour 2017	Labour court cases statistics	Increasing pattern of Malaysian labour court cases for the past 9 years that involved young construction professionals
	Hashim, Azman, Ghani and Sabri 2017	Employee retention	Awareness on important factor in employees' turnover focuses on the work life balance elements such as flexible job schedule, job sharing, job burnout	
	United Kingdom (UK)	Worrall, Harris & Stewart, 2010	Barriers of women in construction industry	The element of work-life balance found as reasonable practice in reducing under-representation and career progression barriers.
	Lebanon	Mezher and Tawil 1998	Causes of delays	Lacking of experience personnel, management support and project management issues in Lebanon construction industry could be avoided by improving human resource practice.
	USA & UK	Xiao & Proverbs 2003	Factors influencing contractor performance	Contractor commitment on lifetime employment require investment in training which induces employees' commitment, sense of loyalty and belonging. Organisations receive better quality, productivity and efficiency as a result of practice.
	European Union	King, Price and Dainty 2004	Strategic approaches to managing human relations	Establishment of proper strategy in managing employment issue related to performance improvement through job satisfaction.
Ghana, India and Zambia	Cotton, Sohail and Scott 2005	labour standards improvements	The implementation of employment-related regulatory in term of monitoring routine seems lacking in its strategy and awareness.	
Singapore	Lim and Ling 2012	professional staff job satisfaction	professional employees' retention strategy requires better approach in human resources practice improvement.	

Element	Locality	Authors	Research Focus	Key Findings
	UK	Raja, Green, Leiringer, Dainty & Johnstone 2013	forms of employment management	human resource candidates should meet construction organisations requirement on construction environment and basic employment law knowledge.
	USA	Pounder, Tabassi and Baloh 2015	human resource-planning in projects	Effective HRM practice depend strongly with delegating roles and responsibilities, identifying informal communicational networks and their risks, monitoring skill requirements consistent also planning of rewarding and compensation program.
	UK, USA, Australia, South Africa, Canada	Navarro-astor, Roman-onsola & Infante-perea 2017	career progression issue among women	barriers in women career progression due to imbalance work and life, gender discrimination, and lacking on equality in human resource practice.
	Tanzania	Sambasivam, Deepak, Salim & Ponniah 2017	Causes of delays	Human-related factor identified as factor causing delay in construction project.
Industrial Relations and Labour Standard	Malaysia	Economic Planning Unit 2015	11 th Malaysian Plan	Amendment of employment regulatory to cater few employment issues including flexibility in working hours and women-related facilities
		Department of Labour 2017	Labour court cases analysis	Basic employment requirement mentioned in the employment contract and human resource practice issues such as equality on employment protection and benefits.
	Ghana, India and Zambia	Cotton, Sohail & Scott 2005	labour standards improvements	Lack of labour standard implementation in construction project
	China	Yip & Rowlinson 2009	Job burnout	Factors related to job burnout among engineers such as lack of promotion, long working hours, unclear role, lack of job security, job conditions and working environments
	Australia	Townsend, Lingard, Bradley & Brown 2011	Working time alterations	Reduction in working days benefits employees in term of work-life requirements.
	Australia	French & Strachan 2015	equal employment policies	Equal employment implementation and treatment to women are biased and unequal.
	UK	Madihie & Siman 2016	career progression issue among women	Women career progression barriers such as imbalance work-life, gender stereotype, nature of work and competition among male and female engineers.

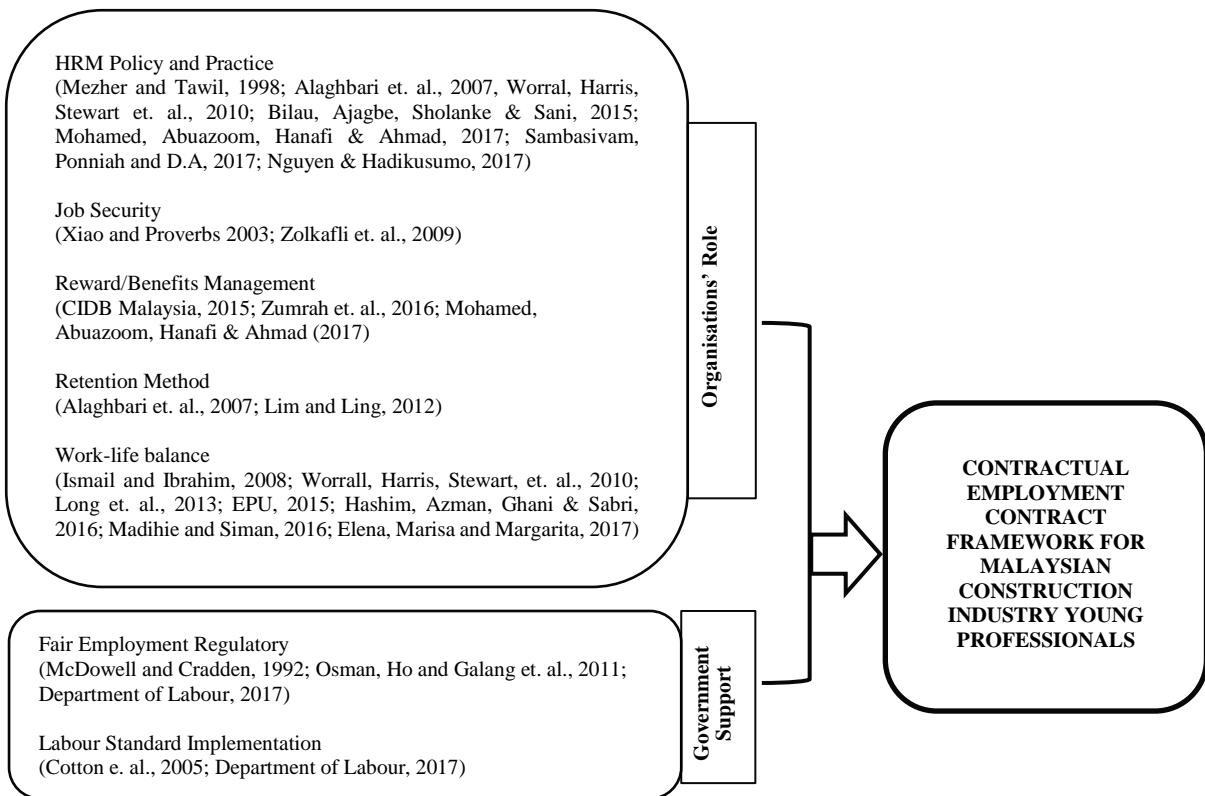


Fig. 2: Proposed Conceptual Research Framework6.1. Proposed Conceptual Research Framework

Table 4: Matrix of Proposed Research Methodology

Research objective	Research question	Data collection	Data analysis	Expected outcomes
To explore employment disputed issues	What are the construction industry employment disputed issues?	Doctrinal Research	Content analysis (Labour Court cases analysis)	Construction industry employment disputed issues
To investigate existing employment regulatory framework	What are the existing employment regulatory framework and its weaknesses?	Doctrinal Research	Content Analysis (legislations/ regulatory framework)	Weaknesses/barriers in existing employment contract regulatory framework

To determine suitable components	What are the suitable components?	Structured Interview	Thematic Network Analysis & Atlas TI	Suitable components
To establish the framework	How to establish construction sector contractual employment contract framework for young professionals?	Focus group discussion & Expert Opinion	Thematic Network Analysis & Atlas TI	Validation & proposed framework

The conceptual framework is designed based on findings from the literature reviews and preliminary interviews conducted as shown in Fig. 2. The proposed conceptual framework involves two (2) major variables: organisations' role and government support. The organisations' role includes five (5) variables. First, on top of managing job satisfaction among professional employees, the implementation of HRM policies and practices in the organisations would also contribute to effective project management [20] [23][24] [33] [34] [35] in order to avoid employment disputes and prevent negative effects on the organisations such as lack of experienced personnel [36]. Second, job security (regardless of the position) does influence employees' performance [37] [38]. Third, rewards/benefits management is significant in influencing employees' performance [23][31][39]. Fourth, retention affects the organisation performance through knowledgeable employees [17][36]. Lastly, the work-life balance element is a trend [40] especially among women since they have to balance the responsibilities between work and family [28] [41] and unfairness in career development [1][33][42][43]. The work-life balance variable drives employees' work satisfaction and productivity alongside with the support from organisation [28]. On the other hand, the government support involved two (2) variables. The Employment Act 1955 Amended 2012 (Act 265) is the fundamental employment regulations for Peninsular Malaysia since 2012). The Act's coverage includes minimum requirements in the terms and conditions of employment. However, Act 265 has limitation on certain wages which is unfair for certain group of employees including the CIYPs to negotiate on the minimum terms and conditions of employment. Similarly, the implementation of labour standard seems bias to certain group of employees with various employment regulatory framework implementation to meet labour standard set by the ILO. It can be summarized that fairness in employment contract should be a prioritised by taking into consideration of all essential variables. Therefore, employment issues can be avoided reasonably.

6.2. Direction for Future Research

It is suggested that fair employment practices in construction organisations focus on employment law-compliance including policies on equal opportunity [44] followed by formulation of general labour standard guideline [15]. Flexible working arrangements [33][43] to cater work-life issue such as approach that have been practiced in the West can also be a recommendation for retention [17][37]. Malaysian employers are also advised to adopt legal and regulatory factors [45], work-life balance elements [28], and rewards/benefits management [23][31][39] for sophisticated overall performance. organisation [28].

Through the 11th Malaysian Plan, the Government has considered the amendment of employment regulatory framework to cater few work-life balance employment issues including flexibility in working hours and other options such as childcare facilities, working from home programs, employment re-entry opportunities, and entrepreneurship programs.

Due to that fact, this research aims to establish a contractual employment contract framework for the Malaysian CIYPs focusing on the employment legislation requirements. Table 4 summarizes the proposed research methodology; begins with an exploration of disputed employment issues through doctrinal research and content analysis on labour court cases in Peninsular Malaysia. Then, comparative study on Asia and other developed countries' regulatory frameworks will be use as reference to identify the weaknesses in existing regulatory framework in

Malaysia. Suitable components related to the CIYPs will be considered in framework-drafting process, together with feedback from semi-structured interviews with respondents from the construction industry. Finally, the framework will be validated holistically by the focus groups and experts' opinions.

7. Summary

It can be summarised that employment legislation in Malaysia is incomprehensive; allowing for the existence of employment issues among unprotected groups. This research will increase the awareness on employment laws and legislation that bring fairness to the employment contract and simultaneously reduce the employment disputes in the construction industry.

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