



# Labour Bulletin

## MTUC will distribute 100,000 pamphlets to explain its demand for a RM900 minimum wage.

Disappointed by Government's failure to respond to MTUC's call to establish a RM900 minimum wage and a RM300 COLA, newly elected General Council decided on a series of action to pursue the matter.

MTUC will decide on a day of action to distribute more than 100,000 pamphlets to members of the public to explain the rationale and importance of the minimum wage campaign. All working families will be made aware of Government's deliberate attempts to depress wages by flooding the country with low paid foreign workers. MTUC's repeated call to determine manpower needs before issuing permits for recruitment of foreign workers have been ignored.

MTUC General Council is deeply disturbed by Government's decision to go ahead with a series of controversial amendments to the Industrial Relations Act. Members of the public will be made aware of the serious implications of the new amendments.

The Brussels based International Trade Union Confederation and the Asia Pacific Regional Organisation of the ITUC have written to Prime Minister Abdullah Badawi urging him not to enforce the new amendments.

G.Rajasekaran  
Secretary General

*MTUC General Council to call for a boycott of British American Tobacco Products in protest against BAT's union busting tactics.*

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## Tidur waktu kerja- Adakah kesalahan besar?

Isu: Penamatan Perkhidmatan disebabkan satu kesalahan  
**ADAKAH ITU KESALAHAN BESAR?**

Yang Menuntut(YM) telah dipecat kerana tidur waktu kerja.

- Telah berkhidmat dengan syarikat selama 10 tahun.
- Tiada rekod kesalahan atau disiplin sebelum ini.

### Penjelasan YM

- YM telah mengakui bahawa beliau telah tidur selama lebih kurang 1 jam 15 minit tetapi mengikutnya beliau telah meminta seorang lagi Boilerman untuk mengganti tempatnya untuk seketika.

### Penjelasan Syarikat:

- Sebagai Boilerman dia dikehendaki menjaga Boiler setiap masa kecuali waktu rehat yang dibenarkan selama 30 minit tetapi dia mesti berada di kawasan Boiler.
- Jenis kerja yang dilakukan oleh YM menetapkan dia tidak boleh meninggalkan tempat kerja. Perbuatan YM meninggalkan tempat kerja dan tidur walaupun pada satu kejadian sahaja tetap merupakan kesalahan yang serius yang mewajarkan penamatan perkhidmatannya.

### Keputusan Mahkamah

*Perbuatan tidur merupakan satu kesalahan salah laku yang serius namun*

- Sejak bekerja dengan syarikat selama kira-kira 10 tahun lamanya, YM tidak pernah ditangkap kerana kesalahan tidur pada waktu kerja. Kejadian itu merupakan kejadian kali pertama. YM hanya melakukan satu kesalahan dan bukannya mengulangi kesalahan yang sama.
- Tidak ada kejadian yang serius atau tidak diingini berlaku ketika itu.
- Tiada bukti yang menunjukkan bahawa pengeluaran syarikat telah terjejas akibat tindakan YM itu.

**Selepas meneliti award-award serta kes-kes lain, Mahkamah berpendapat bahawa hukuman penamatan kerja seharusnya dijatuhkan bagi kesalahan kedua atau berikutnya dan bukan atas kesalahan kali pertama.**

- Oleh yang demikian Mahkamah berpendapat dalam kes ini hukuman yang dijatuhkan adalah terlalu berat. Syarikat sepatutnya mengambil kira rekod perkhidmatan YM yang baik itu. Mahkamah memutuskan bahawa penamatan kerja YM adalah tidak wajar. Remidi yang diberikan ialah pembayaran tunggakan gaji kebelakang dan juga pampasan sebagai ganti pengembalian kerja.

Award No.1681 of 2007

Company: Ramatex Textiles Ind S/B, Union Rep: Boscko Augustin  
Chairman: Mat Sapuan Samion

## Industrial Courts weighed down by too many cases

New Straits Times reported that the Industrial courts are faced with a problem as the number of new cases is rising every year while the backlog is piling up.

The number of cases accumulated from 2001 to last year (2007) is 4,566, while the number of new cases filed was 2,346 with another 67 revived.

With 26 industrial court chairman to handle the cases and submit written awards, this is posing a real challenge to the courts.

The table 1 below shows number of cases been handle by the industrial courts:

Table 1

Year	Number of cases
2007	6,979
2006	6,766
2005	6,044
2004	5,771
2003	3,213
2002	3,197
2001	3,100

Table 2 shows the total awards handed down from 2000 till 2007

Year	In favour of employers	In favour of employees
2000	70	91
2001	70	138
2002	85	158
2003	139	120
2004	131	155
2005	162	242
2006	483	392
2007	1,077	1,041

With each chairman having clear a minimum of 90 cases a year and priority to be given to old cases, they cleared 2,367 cases with written judgements that RM31,441,719 in compensation was awarded to the affected parties said Human Resources Minister Datuk Seri Dr. Fong Chan Onn. (NST, 28 January 2008)

## ILO COMMENTS ON THE NEW BILL TO AMEND THE MALAYSIA INDUSTRIAL RELATIONS ACT, 1967, FROM THE POINT OF VIEW OF FREEDOM OF ASSOCIATION PRINCIPLES

The new bill to amend the Industrial Relations Act (the Bill) should be seen within the context of the repeated and unequivocal requests by the Committee on Freedom of Association over the last two decades, for amendments to be made to the current legislation (Trade Unions Act, 1959 and Industrial Relations Act, 1967) so as to ensure that:

☞ all workers without distinction whatsoever, enjoy the right to establish and join organizations of their own choosing, both at primary and other levels, and for the establishment of federations and confederations;

☞ no obstacles are placed, in law or in practice, to the recognition and registration of workers' organizations, in particular through the granting of discretionary powers to the responsible official;

☞ workers' organizations have the right to adopt freely their internal rules, including the right to elect their representatives in full freedom;

☞ workers and their organizations enjoy appropriate judicial redress avenues over the decisions of the minister or administrative authorities affecting them; and

☞ the full development and utilization of machinery for voluntary negotiation between employers or employers' and workers' organizations, with a view to regulating terms and conditions of employment by means of collective agreement is encouraged and promoted by the Government.

*It should moreover be noted, that during the last examination of the follow-up to its recommendations, the Committee on Freedom of Association expressed "its deep concern with the Government's statement that it is unable to bring its law and practice into conformity with freedom of association principles.*

*Against this background, the Bill to Amend the Industrial Relations Act does not appear to introduce any significant improvement but rather would appear to aggravate the situation, if adopted, by introducing for instance, the following amendments:*

☞ Failing to circumscribe the discretionary powers given to officials responsible for the registration and recognition of trade unions and further allowing the delegation of such powers to the level of ranking officer (new section 2A IRA);

☞ Adding "executive" and "security" employees to the exclusion of "managerial" and "confidential" employees from protection against anti-union discrimination, without moreover providing any definition of those terms (section 5 IRA as amended). As noted by the MTUC, this would allow an employer to exclude an employee from protection by a mere "appointment" (not "promotion") on paper.

☞ Giving the Director General and the Minister full power to determine whether workers are employed in a managerial, executive, confidential or security capacity, without possibility of appeal to the court (new section 0 (IB) IRA).

☞ Providing that where a trade union fails to report to the Minister a refusal by the employer to recognize it within fourteen days of such refusal, the union's claim for recognition shall be "deemed" to have been withdrawn (section 9 (4) IRA as amended). Moreover, the new section 10(2) IRA provides that there shall be no protection against dismissal for workers claiming recognition, where such recognition is "deemed" to have been withdrawn.

☞ Discontinuing the previous practice of determining trade union membership for purposes of trade union recognition on the basis of the register of trade union members maintained by law, in favour of holding a secret ballot without however, providing sufficient safeguards against the possibility of inflating the size of the bargaining unit through temporary or fixed term workers, as indicated by the MTUC (section 9 (4A) IRA as amended).

☞ Defining in very narrow terms the items which may be proposed in the course of collective bargaining (provision for training to enhance skills, provision for an annual review of the wage system, and provision for a performance-based remuneration system) new section 13 (2A) IRA)

☞ Lacking clarity and therefore potentially allowing room for abuse with regard to the persons authorized to represent employers and employees in conciliation proceedings (section 19B (1) ) and in the course of representations on dismissals (section 20).

☞ Allowing the Courts to decide that a case should be struck off or reinstated, without specifying the grounds on which such a decision may be based (new section 29 (fa) IRA).

☞ Putting a cap on the remedies which may be ordered by the court in case of anti-union dismissals. In particular, the new subsection 30 (6A) provides that in making an award for remedies against acts of anti-union discrimination, the Court "shall" take into consideration the factors specified in the Second Schedule.

The second Schedule indicates that in the event backwages are to be given, they shall not exceed twenty-four months' backwages from the date of dismissal; where there is post-dismissal earning, a percentage of such earnings to be decided by the Court, shall be deducted from the backwages given; and any relief given shall not include any compensation for loss of future earnings.

# MTUC-The Way forward

About 70 trade unionists participated in a two days National workshop organised by MTUC at Genting Highland on 21-22 January 2008. The workshop realised that decline in density and inability of trade unions to organise new establishments will cause many problems for trade unions to survive and prosper in future. Organising the unorganised should be the main priority for trade union leaderships.

Prof Nagiah, Researcher on Trade unionism in Malaysia highlighted some of the challenges facing labour movement:

- Power and influence of multinational corporations (MNCs) coupled with their strong anti-union stance, blocked minimum wage legislations, weakened collective bargaining and flooded the labour market with foreign workers.
- Trade liberalisation and deregulation arising from globalisation and competition
- Implementation of technology without due regard to implications on workforce.
- Core labour standards and non-ratification of Convention 87 and the Right to Organise and bring relevant legislation, pol-the letter and spirit of Conventions 87 and 98.
- Sub-contracting/outsourcing jobs abroad
- Unfavourable national labour laws, excluding trade unions from many economic activities
- Bargaining power and influence of MNCs has tremendously increased. Argument by MNCs is that labour standards and workers' rights' clauses will drive away investors.
- On-going process of massive restructuring, mergers and acquisitions, especially by the MNCs, and the constant downsizing have led to deteriorating employment, working and living conditions across the globe.



Prof Nagiah

on Freedom of Association  
policy and practices in line with



- Traditional work systems are changing, with increasing focus on flexibility
- Restructuring, leading to flatter organizations and work intensification
- Environmental protection
- More women are joining the workforce; exposure of women to discrimination, low wages, sexual harassment and poor working conditions.
- Violations of trade union rights.
- The harmful "race to the bottom" competition and cost-cutting measures by unscrupulous employers.

The consequence: precarious jobs





# MTUC-The Way Forward

Bengkel dua hari yang berlangsung di Genting dari 21-22 Januari 2008 telah banyak menyogok permasalahan yang dihadapi oleh MTUC. Lebih kurang 70 pemimpin kesatuan sekerja telah mengambil bahagian secara giat dalam bengkel tersebut. Hasil perbincangan dari bengkel dapat diselangkarkan bahawa:

- *Kejatuhan dalam keahlian kesatuan, hanya 8% tenaga buruh yang berkesatuan*— kesatuan sekerja seharusnya kembali menumpukan perhatian yang serius terhadap mengurus dan mengelola lebih banyak pekerja dan syarikat dalam kesatuan sekerja.
- Kewangan MTUC yang membimbangkan-Yuran gabungan keahlian seharusnya disemak semula dan sebolehnya ditingkatkan bagi membolehkan MTUC menjalankan pengurusan dan aktiviti dengan lebih berkesan.
  - RM1.00 yuran gabungan ini telah disyorkan pada tahun 1978-tiada apa-apa semakkan sejak 30 tahun. Kini nilainya adalah RM0.39 mengikut kadar inflasi 3.2% (Prof Nagiah).
- Adalah menjadi tanggungjawab pemimpin-pemimpin kesatuan sekerja untuk berganding bahu dan bekerjasama dalam memperjuangkan hak kaum pekerja. Pemimpin-pemimpin harus sanggup berkorban demi kepentingan kaum pekerja.
- Meningkatkan komunikasi sesama kesatuan gabungan melalui teknologi maklumat. Di samping itu disyorkan juga agar E-union and E-organising di perkenalkan.



Sdra. Syed Shahir,  
President MTUC



Prof Maimunah bersama Sdra. G.Rajasekaran, Setiausaha Agung

## ***Prof Maimunah berpendapat bahawa :***

*Effective and successful trade unions need leadership. Leadership is about serving your followers. Serving your fellow-workers requires sacrifice. Leadership is also about power and struggles to attain power. Internal conflicts and squabbles are inevitable. Yet, these conflicts must NEVER be allowed to dominate the trade union's agenda. When you join a trade union, you should be aware of the sacrifices made by workers in the past, especially in the early days of trade unionism when the whole weight of society was against workers and their struggle.*



Peserta-peserta bengkel sedang giat membincangkan permasalahan dan halatuju MTUC

## Fighting For Rights

International Transport Workers Federation Asia Pacific Civil Aviation Section adopted a Kuala Lumpur declaration on 6-7 Dec 2007. The declaration was in line with the 41st International Transport Workers Federation Congress, meeting in Durban, South Africa from 2-9 August, which adopted the work Programme on 'Organising Globally-Fighting For Our Rights'.

### **Their pledge were:-**

- Will work closely with other organisations to establish the unification of democratic and civil aviation trade unions into one single, strong and viable organisation of aviation workers in this region;
- Shall prepare to meet the challenges of the emerging of the low cost carrier, by facilitating the free flow of knowledge, share best practices and experiences and exchange information between them;
- They shall develop qualified and trained unionist, establish strong networks among them to ensure the organising of low cost carriers workers are completely organised in this region;
- They will increase awareness, education and training programmes to the members especially on the important of organising by improving union communication and information dissemination among union members;
- They strongly urge all the low cost carrier in South East Asia, especially Air Asia to allow their workers to be organised in line with ILO Con 87,98 and 135. (Source:MASEU)

## **EPF-retirees who work after 55 must contribute:**

### **5.5% employees and 6% employers**

Workers over 55 must contribute 5.5% for employees : 6% for employers. Effective from Feb 1, if someone working after retiring at 55, they will be required to continue contribute to Employees Provident Fund.

Currently, EPF contributions by those who work after 55 is voluntary. The rate of contribution by both the employee and employer is also a voluntary basis. A survey done three years ago found that 98 % of EPF members withdrew all their money when they reached 55, And, 80 % exhausted their savings in three years. .. (NST, 24 January 2008)

## **Private sector-led growth**

### **Economist : Challenging global economic landscape for 2008 due to external market uncertainties**

Malaysia's private sector will continue to be the main growth driver for the economy amid a global economic slowdown in 2008 with private investment projected to increase 7.9% and 9.5% respectively.

Meanwhile the inflation rate is expected to trend higher this year to 3.5% due to rising food and commodity prices, impending review of administered prices such as toll rates and public-transportation fares, and take-off of construction activities under the Ninth Malaysia Plan(9MP) that would put pressure on building material prices...(starbiz, 21 Jan 2008)

## **6-month Visa for health tourists**

The visa for health tourists to Malaysia has been extended from 30 days to six months effective immediately. Deputy Prime Minister Datuk Seri Najib Abdul Razak said the cabinet committee on tourism agreed with the Home Ministry's suggestion that health tourists be given a longer stay and multiple entries in their visas.

He said that "this is to meet our aim to promote health tourism in the country,"...(the Sun 9 January 2008).

## **Foreign patients leave RM61m bill**

An increasing number of foreigners who seek treatment in the public hospitals are leaving without settling their bills. From 2002 until October last year(2007), foreign patients owed RM61.988 million in fees. In 2002 and 2003, they owed slightly more than RM6 million each year, and the amount doubled to RM11million a year in the next to years. In 2006, the figure went up to RM13.55 million-a 118 % jump from the RM6.21 million owed in 2002...

Health Ministry parliamentary secretary Datuk Lee Kah Choon said all 132 public hospitals faced the problem...(NST 26 January 2008)

<i>Amount Owed to Public Hospitals</i>			
Year	Malaysian (RM)	Foreign Patients (RM)	Yearly Total(RM)
2002	10,395,827.01	6,212,603.55	<b>16,608,430.56</b>
2003	10,397,188.12	6,121,090.52	<b>16,518,278.64</b>
2004	12,525,539.99	11,431,649.87	<b>23,957,189.86</b>
2005	12,283,105.61	11,768,762.00	<b>24,051,867.61</b>
2006	12,493,161.05	13,551,941.52	<b>26,045,102.57</b>
2007 (until Oct)	22,759,428.00	12,797,040.74	<b>35,556,468.74</b>
<b>TOTAL</b>	<b>80,854,249.78</b>	<b>61,883,088.20</b>	<b>142,737,337.98</b>

# Kenaikan Harga

## Kerajaan tidak mampu lagi beri subsidi petrol setelah Petronas membelanjakan terlalu banyak wang untuk projek mega

Muda Mohd Noor | Jan 3, 2008 Malaysiakini

Parti Keadilan Rakyat (PKR) mendakwa kerajaan mahu menaikkan harga minyak setelah Petronas membelanjakan terlalu banyak wang untuk projek mega yang tidak memberi keuntungan rakyat. Bendahari Parti Keadilan Rakyat (PKR), William Leong berkata, berikutan itu kerajaan tidak mampu lagi memberi subsidi petrol dan terpaksa menaikkan harga minyak. "Antara projek yang menggunakan wang Petronas ialah Putrajaya, Menara Kembar Petronas, Litar Sepang dan Monsoon Cup di Terengganu.

### "Nilai perbelanjaan

"Petronas dilaporkan mendapat keuntungan RM42 bilion tahun lalu dan subsidi yang dikeluarkan ialah RM9.76 bilion,". Pada masa yang sama, William (ahli PKR) juga meminta kerajaan mendedahkan perbelanjaan sebenar dalam menguruskan wang Peronas sejak tahun 1974. Katanya, biar rakyat tahu dan menilai perbelanjaan yang telah dibuat ke atas wang tersebut yang selama ini dikawal oleh Perdana Menteri.

*Now, the increase of crime - especially theft and robbery (especially those involving weapons other than firearms) could be linked to the economic state of the people of Malaysia - i.e. poverty or let's just say "not enough income to live and support self, family and dependents". I reiterate again that the gap between the rich and the poor in Malaysia is amongst the highest in SEA and Asia.-Charles Hector, Independent writer*

Sementara itu, Jeyakumar (ahli PKR) berkata, kerajaan perlu melihat dan menilai pendapat rakyat sebelum mengambil keputusan menaikkan harga minyak. "Boleh ikut contoh Singapura. Harga minyak di republik tersebut tinggi tetapi bandingkan pendapatan rakyatnya," katanya. Jeyakumar juga mendakwa, kira-kira 90 peratus rakyat Malaysia mempunyai pendapatan kurang RM3,000 sebulan dan kerana itu tidak adil kerajaan membebankan mereka dengan

## Kekurangan minyak masak dan tepung gandum

Adakah Malaysia benar-benar menghadapi masalah kekeurangan stok sedangkan Malaysia adalah pengeluar utama barangan ini. Sejak kebelakangan ini pengguna dan golongan pendapatan rendah disogokkan dengan pelbagai permasalahan harian di tambah pula dengan kenaikan harga barangan tanpa sebarang asas yang dapat diterima. Secara tiba-tiba pengguna dikejutkan dengan maklumat kekurangan barangan pengguna dan keesokan hari secara tidak langsung semua barangan yang ada kaitan dengannya terus dinaikkan harga- roti, kuih-muih, dan sebagainya. Di manakah sistem pemantauan yang sepatutnya berfungsi memantau kenaikan harga barangan itu? Namun syabas kepada pihak berkuasa yang berjaya mengesan sedikit penyeludukan barangan ini. Malahan ini akan menjadi satu trend sekiranya sindiket-sindiket sedemikian tidak ditangani atau diatasi secara berkesan. Susulan dari itu pelbagai permasalahan dan tekanan akan timbul kepada golongan yang berpendapatan rendah dan keluarga mereka.

Vegetables



## Price check council

The government plans to create national stockpile of essential goods and commodities as a safeguard against the impact of rising prices. Deputy Prime Minister Datuk Seri Najib Razak said the government had agreed in principle that stockpiling might now be necessary, although no budget had been allocated for it yet.

Along with stockpiling, a national system for warehousing and distribution will be created. This is to ensure people will not be affected by higher prices during normal times, and to protect energy and food security during emergencies, including natural disasters... (NST 24 January 2008)



# International News

## 3,550 Workers Victimized in 2007 due to unsafe and hazardous working conditions in Bangladesh

Bangladesh Occupational Safety, Health and Environment Foundation (OSHE)'s annual occupational accident survey report revealed that 1,768 workers were killed and 1,782 workers were critically injured in different workplaces around the Bangladesh as a result of unsafe and hazardous working condition in 2007.

Among the accident victims, 262 worker were female while male were 2512. In 2007, the occupational death and injury figure was highest in the garment sector (total victimized workers 890) followed by the transport sector (672) and construction sector (238).

The survey also found that 294-day labourers, 40 rice mill workers, 100 domestic workers, 72 salesman, 247 farmers, and 997 workers in other sectors were victimized during the year.

Analyzing the causes of the incidents, it was found that lack of proper application of laws at workplaces, lack of willingness of employers to follow the relevant laws and rules, both hazardous and aged-old installations, ineffective machinery, inadequate safety tools (PPE) at workplaces etc were the key factors behind the occupational accident occurred.

Source: [forum.ituc-csi.org](http://forum.ituc-csi.org) 6 Jan 2008

## Innovation is needed in trade union recruitment methods

The Indonesian union confederation KSBSI is deploying dynamic strategies to boost membership levels, especially in the informal economy. Rekson Silaban, president of the KSBSI (1) and a vice president of the ITUC, offers a realistic assessment of their results, provides an update on the trade union projects that followed the Tsunami in 2004, and stresses the need for the international trade union movement to promote new ways of organising.

This confederation has set up a financial reward scheme for affiliated organisations recruiting new members. What prompted them to set up this system and how successful has it been?

With the growing flexibility of the labour market in Indonesia, increasing numbers of workers are being forced into subcontracting work. It has become increasingly difficult and costly to organise them, as they are no longer "fixed targets" – they move from one region to another and from one company to another. In addition, the unions only pay us affiliation fees of 1% per worker per month, which does not amount to much as the minimum wage is very low. Their organisers were having difficulties recruiting new members and the cost per member recruited had become too high.

*So, two years ago, they set up special recruitment teams and committed to paying two euros for every new member recruited, which comes to more or less the same as the cost of printing documents, the campaign material, the cost of travel to visit workers, etc. This amount was paid to the local unions, to help them expand their membership base. They were able to recruit 5,000 new members within a year.*

The money been transferred to the local unions came from their savings, but the idea was that they would recover it in the long run. In that sense, it was a kind of loan. More and more local unions wanted to take part in this type of recruitment campaign, but they had to draw it to a close, for lack of funds.

The problem is that the affiliation fees are not always paid on a regular basis, among other things because some workers lose their jobs. At the end of the day, they laid out more money than they got back.

ITUC Online: 11 January 2008

## Call to reject Japan-Philippines Economic Partnership Agreement

In contrast to their earlier hyperbolic claims, government negotiators are now at least finally acknowledging that the Japan-Philippines Economic Partnership Agreement (JPEPA) will have adverse effects, hence the need for "safety nets". But no amount of safety nets will be enough precisely because Japan's intention is to create conditions for the maximum exploitation of the Philippines' natural and human resources through the JPEPA.

The country's experience with the World Trade Organization (WTO) since 1995 also clearly shows that so-called safety nets are only token mechanisms that have completely failed to stop the disastrous effects of free trade. Anti-JPEPA group No Deal! reiterates that the best safety net against the JPEPA is to reject it completely.

The WTO was questioned before the Supreme Court in 1994. Although the high court eventually found the WTO agreement constitutional, the subsequent trade liberalization has had disastrous effects on the Philippine economy, severely damaging local agriculture and forcing millions of Filipinos to go abroad to seek work. The past decade of poor economic performance actually gives the Supreme Court a reason to revisit its arguments in Tañada, et al. vs. Angara, et al. (G.R. No. 118295) of May 2, 1997.

The economy has only been weakened by free trade agreements such as under the WTO and like the proposed JPEPA. If the government is prepared to truly develop the domestic economy instead of surrender it to foreign traders and investors, then safety nets would not be needed. If it is not prepared, then no safety net will be good enough.

*No Deal! Movement Against Unequal Economic Agreements*