



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

RETRENCHMENT: THE LAW AND PRACTICE IN MALAYSIA

BY

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**THESIS SUBMITTED AS A REQUIREMENT FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY IN
LAW**

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INTERNATIONAL ISLAMIC UNIVERSITY
MALAYSIA**

MAY 2005

ABSTRACT

Retrenchment has been used interchangeably with terms such as lay-off, redundancy, voluntary separation scheme, downsizing, and resizing, among others. By whatever name one may call it, it is finally parting with workers, most of whom are competent and would have continued contributing to the organisation. Retrenchment can happen for various reasons, from an economic slowdown to reorganisation and restructuring of a company. A retrenched worker, who may have given years of unrelenting service to a company, is therefore deprived of his security of tenure which has been equated to 'property right'. The possible negative outcome he could face on immediate termination includes depression and family pressures that would arise due to the loss of income, among others.

In West Malaysia, the existing law on retrenchment does not regulate a vast majority of workers under a contract of service. The situation in Sabah and Sarawak is even more disturbing given the fact that there is no law on retrenchment. Thus, in a genuine retrenchment exercise, the retrenched workers are left at the will and fancies of the employer as to retrenchment procedures and compensation, unless they are unionised, in which case the union may bargain for their rights.

The thesis will therefore discuss and analyse the law on retrenchment from Chapter 2 to 6, of which will include an acceptable definition of retrenchment to evade the existing ambiguity. Chapter 7 will survey the opinions of various parties involved to substantiate the argument for reforms and uniformity of laws on retrenchment. It will further highlight the 'battle' between the employees' and employers' unions for the establishment of the National Retrenchment Scheme. Chapter 8 will attempt to impress on how Islamic principals should be moulded into the existing system for the achievement of industrial harmony. Finally, Chapter 9 concludes the research by giving some relevant recommendations.

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APPROVAL PAGE

The thesis of FARHEEN BAIG BINTI SARDAR BAIG has been examined and is approved by the following:

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DECLARATION

I hereby declare that this thesis is the result of my investigation, except where otherwise stated. Other sources are acknowledged by footnotes giving explicit reference and a bibliography is appended.

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ACKNOWLEDGEMENT

First and foremost, I thank Allah (S.W.T.) who has seen me through this period of time and who has given me the inner strength towards the completion of this thesis. May the peace and blessing of Allah be upon Prophet Muhammad (S.A.W.) and upon his family and his companions and upon those who follow them in piety. I wish to express my most sincere gratitude and thanks to my supervisor, Associate Prof. Dr. Nik Ahmad Kamal Nik Mahmood for his patience and dedication in supervising the preparation of this thesis from the beginning right to the very end. Working under him was an extremely pleasant and rewarding experience.

I would like to thank the International Islamic University Malaysia and Ahmad Ibrahim Kulliyah of Laws for financing my study leave and research work. Also the staff of the Ministry of Human Resources both in the Peninsular and East Malaysia who have extended their generous help. I am also grateful to all those who have been interviewed for their valuable opinions and suggestions for the improvement of the Law on Retrenchment in Malaysia.

Most of all, my heartfelt gratitude goes out to my entire family, my loving husband, Ashgar Ali bin Ali Mohamed and our two beautiful sons, Muhammad Irfan and Muhammad Imran, for their wholehearted support and generous understanding that they have displayed over the years it took to complete this thesis. Furthermore, the strength and courage given to me by my beloved parents Sardar Baig bin Abdullah Baig and Omme Hafiza binti Syed Azmatullah and their constant *du'a* was a motivational source in the completion of this thesis. Lastly, I would like to record my appreciation to all those who have contributed in extending their generous and kind help and support in the preparation of this thesis.

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LIST OF ABBREVIATIONS

A.C.	Law reports, Appeal Cases
All E.R.	All England Law Reports
A.I.R.	All Indian Reports
A.L.R	Australian Law Reports
A. M.R.	All Malaysian Reports
Beav.	Beavan's Rolls Court Reports
Bing.	Bingham's Common Pleas Reports
Bhd.	Berhad
CA	Court of Appeal
Ch.D	Law Reports, Chancery Division
C.L.J	Current Law Journal (Malaysia)
D.L.R.	Dominion Law Reports
E.R.	English Reports
E.R.N.Z.	Employment Reports New Zealand
Exch.	Law Reports, Exchequer
FC	Federal Court
Fn.; fn.	Footnote
H.L.Cas.	Clark's House of Lords Cases
HLR	House of Lords Reports
Ibid.	(<i>ibidem</i>) in the same place
i.e.	Id est (Lat) that is
I.C.R	Industrial Cases Reports (England)
ILO	International Labour Organisation
I.L.R.	Industrial Law Reports
IRA	Industrial Relations Act, 1967
I.T.R.	Industrial Tribunal Reports (England)
I.R.	Industrial Reports (New South Wales)
I.R.L.R.	Industrial Relations Law Reports
K.B.	Law Reports, Kings Bench
Ltd.	Limited
L.J.(Ex)	Law Journal Reports, Exchequer, New Series
L.J.Q.B.	Law Journal Reports, Queens Bench, New Series
L.T.	Law Times Reports
M.&W.	Meeson and Welsby's Exchequer Reports
M.L.J.	Malayan Law Journal
N.Z.L.R.	New Zealand Law Reports
Ors	Others
P	Page
Q.B.	Law Reports, Queens Bench
Q.B.D.	Law Reports, Queens Bench Division
s.a.w	Salallah Hu'alaihi Wassallam
s.w.t.	Subha nahu wata 'ala
S.C.R.	Canadian Law Reports, Supreme Court
T.L.R.	Times Law Reports
U.S.	United States Supreme Court Reports
Wash.	Washington
W.L.R.	Weekly Law Reports

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