Cracks in the Code: Forms and Legal Loopholes Fueling Wage Theft in Malaysia in Comparison with Australia

Nur Syakirah Samsudin, Nur Farahiyah Mohd Nasir*

Faculty of Law, National University of Malaysia (UKM)

***Corresponding Author**

DOI: https://doi.org/10.47772/IJRISS.2026.100500229

Received: 29 April 2026; Accepted: 05 May 2026; Published: 28 May 2026

ABSTRACT

Wage theft remains a pervasive issue in Malaysia despite the existence of legal frameworks such as the Employment Act 1955 and related enforcement mechanisms, as Malaysian law addresses wage-related violations without expressly criminalising wage theft. In contrast, Australia has adopted a stronger regulatory approach by criminalising intentional wage theft under the Fair Work Act 2009. This study examines the legal frameworks, forms and impacts of wage theft in Malaysia by drawing comparative insights from Australia's more stringent legal and enforcement model. It specifically analyses the legal loopholes that allow wage theft to persist in Malaysia and evaluates how Australia's approach may offer useful lessons for reform. Using a qualitative comparative methodology, the study analyses primary legal materials, including International Labour Organization instruments, Malaysia's Employment Act 1955, the Employment Act (Amendment) 2022 and Australia's Fair Work Act 2009, alongside secondary sources such as academic literature, policy papers, research reports and newspaper articles. The findings reveal that wage theft occurs through non-payment, late payment, illegal deductions, withholding of statutory entitlements and discriminatory wage practices, all of which cause significant financial, social and psychological harm to workers. These problems persist due to legal loopholes, weak enforcement, limited deterrence and barriers faced by workers in accessing remedies. This research contributes to the existing literature by identifying specific legal and enforcement gaps in Malaysia and proposing actionable reforms to strengthen worker protection, improve enforcement effectiveness and support a fairer labour regulatory framework.

Keywords: Wage Theft, Legal Framework, Comparative, Malaysia, Australia

INTRODUCTION

In the world of employment, the payment of wages by employers to employees forms the cornerstone of the employment relationship. It presents the compensation provided in return for the performance of duties and responsibilities by the employee, whether outlined in a written or non-written employment contract (Nazruzila Razniza et al., 2023; Barclay et al., 2024). Beyond mere remuneration, wages play a vital role in ensuring workers' livelihood, reducing poverty, and encouraging active participation in the labour market (Barclay et al., 2024). Therefore, it is imperative that employees receive their wages in full and on time, without the fear of wage theft by their employers. Yet, despite this fundamental importance of wages, wage theft remains widespread and unevenly distributed across the world.

Wage theft undermines a fundamental right as set out in Article 23(3) of the Universal Declaration of Human Rights (1948), which affirms everyone who works is entitled to just and favourable remuneration, ensuring a dignified existence for themselves and their family (Patriarca, 2020). In Malaysia, this violation is pervasive, affecting thousands of employees across various sectors (Cole et al., 2024; Levin, 2021 cited in Barclay et al., 2024). Despite existing Malaysian labour laws aimed at protecting workers, many still face a broad spectrum of exploitative practises such as non-payment of wages, late payments, unlawful deductions, withholding statutory entitlements, and discriminatory wage-setting practices (Migrant Forum in Asia, 2023, International Labor Organization, 2024; International Labor Organization, 2023).

The term "Cracks in the Code" reflects Malaysia's ongoing struggle with wage theft, stemming from weak enforcement, procedural delays and exploiting loopholes in the labour protection framework (Arifuddin et al., 2024). These gaps perpetuate injustices, disproportionately harming workers' livelihood and their economic security, particularly among the most vulnerable group (International Labour Organization, 2023; Arifuddin et al., 2024; Barclay, 2024).

This study aims to identify and categorise the various forms of wage theft occurring in Malaysia in comparison with Australia, and to compare the legal frameworks in Malaysia and Australia that address this issue. It seeks to highlight common challenges and critically evaluate the legal loopholes that perpetuate wage theft. Beyond legislative analysis, the research will explore the far-reaching consequences of wage theft on affected workers and the economy. Finally, by examining Australia's approach to addressing wage theft, the study will propose recommendations to strengthen legal protections and enforcement mechanisms in Malaysia, offering actionable solutions to close existing loopholes and establish more robust frameworks to combat wage theft.

LITERATURE REVIEW

In scholarly literature, wage theft is widely recognised as the denial of legally owed wages or entitlements to workers, whether through non-payment, illegal deductions, withholding statutory entitlements and discriminatory wage practices (International Labor Organization, 2024; International Labor Organization, 2023). The term "wage theft" itself was first used in 1988 by Michael Belknap but only gained broader recognition in scholarly discourse in the 2000s (Barclay et al., 2024).

Despite its growing acknowledgment, international organisations, such as the International Labor Organization (ILO) and the United Nations, have addressed wage theft, mainly in the context of migrant worker exploitation, but have yet to offer a clear definition of the term per se (Barclay et al., 2024). Additionally, comprehensive international statistics remain unavailable, and existing studies likely reflect only the tip of the iceberg (Barclay et al., 2024).

Even at the national level, the term "wage theft" is rarely used in Malaysian legal discourse, many practices falling within its scope are addressed under existing labour laws such as the Employment Act 1955. However, Malaysia treats most of these violations as civil breaches, limiting their deterrent effect. The Act provides mechanisms for filing complaints, with enforcement mainly through fines or civil actions (Employment Act 1955). There is currently no recognition of intentional wage theft as a criminal offence.

By contrast, Australia has progressively tightened its legal framework through amendments to the Fair Work Act 2009 by criminalising intentional wage theft, imposing severe penalties including imprisonment and fines (Simon & Serena, 2024). They also maintain civil penalties for unintentional breaches resulting from administrative errors (Fair Work Ombudsman, 2024).

As members of the International Labour Organization (ILO), both Malaysia and Australia are bound by core labour standards, including protections against forced labour and exploitation. ILO standards, which primarily take the form of Conventions, Recommendations, Declarations and Resolutions prohibits wage theft as it is considered as a serious violation of labour rights (International Labour Organization, n.d.).

In addition, despite the growing body of literature, most existing research remains concentrated on migrant labour. While migrants represent a significant share of Malaysia's workforce, other high-risk sectors such as domestic work, construction and plantations remain under-examined. Quantitative data is limited and most studies rely on qualitative or anecdotal evidence, restricting the ability to generalise or inform reform.

Hence, there is a pressing need for more comparative evidence-based legal research that identifies systemic gaps and offers actionable solutions. Australia's shift toward criminalising wage theft offers a valuable benchmark, while Malaysia's current framework reveals enduring legal and enforcement loopholes that enable exploitation.

METHODOLOGY

The methodology used in this research involves a qualitative comparative legal analysis to examine the legal loopholes that fuel wage theft in Malaysia, with Australia used as the comparative jurisdiction. The study is doctrinal in nature and involves a detailed examination of statutory provisions, case law, policy materials and enforcement mechanisms across both jurisdictions.

The analytical framework for comparison is structured around several key indicators. These include the legal recognition and classification of wage theft, the scope of worker protection, the types of wage theft covered by existing laws, the adequacy of penalties and sanctions, the powers and effectiveness of enforcement institutions, workers' access to remedies, and the practical challenges involved in implementing reform. This framework enables the study to assess not only the content of the relevant laws, but also their practical effectiveness in preventing, detecting and remedying wage theft.

The primary sources for this research include key legislation such as Malaysia's Employment Act 1955 and Australia's Fair Work Act 2009. These statutes are critically analysed to determine their effectiveness in combating wage theft and to identify structural weaknesses in Malaysia's legal framework. The research also draws on international labour standards, including International Labour Organization (ILO) conventions and publications, to evaluate Malaysia's compliance with recognised labour protection principles and to identify areas for improvement.

Secondary sources, including scholarly books, journal articles, official websites, previous research publications, policy papers and newspaper articles, are used to support the legal analysis and to trace broader enforcement challenges. Data collection is conducted through library research, both physically at the UKM Law Library and through online databases such as LexisNexis, CLJ Prime, HeinOnline and official websites of legal institutions and relevant government agencies. This analytical and comparative approach informs targeted recommendations for strengthening Malaysia's legal and regulatory framework on wage theft.

FINDINGS AND DISCUSSION

The Legal Framework Governing Wage Theft

Wage theft, as defined by the ASEAN-Australia Counter Trafficking (2023), refers to the total or partial non-payment of a worker's rightful remuneration, earned through labour. The legal framework governing wage theft in Malaysia and Australia reflects their shared obligations under international labour standards, particularly the Universal Declaration of Human Rights 1948 (UDHR) and various International Labour Organization (ILO) conventions. These standards mandate fair remuneration (Article 23(3) of the UDHR), prohibit forced labour (Article 4 of the UDHR) and emphasise wage protection through national legislation, as outlined in the Protection of Wages Convention, 1949 (No. 95). Additionally, permissible deductions and timely wage payments are regulated under the Protection of Wages Recommendation, 1949 (No. 85).

Building on these international foundations, both countries have developed distinct legal responses to wage theft. Malaysia addresses wage theft primarily through the Employment Act 1955 (EA 1955), which safeguards workers' rights by penalising non-compliance. The Act covers a wide range of workers including locals, migrants, gig workers and part-timers although certain entitlements, such as overtime, rest day, public holiday wages, shift allowances and termination or lay-off benefits, are limited for those earning above RM4,000 per month (Ali Salih Khalaf v. Taj Mahal Hotel, 2014; Department of Labour Peninsular Malaysia of Ministry of Human Resources, n.d.). Enforcement, however, is largely civil and administrative in nature, with limited penalties and no criminal sanctions for intentional wage theft. This approach reflects Malaysia's focus on a regulatory approach that prioritises compliance worker welfare over punitive criminal measures.

Conversely, in Australia, both Australian jurisdictions, Victoria and Queensland have enacted wage theft laws known as Victoria's Wage Theft Act 2020 (VIC) and Criminal Code Act 1899 (QLD) (Barclay et al., 2024). It is now that the federal government has taken a stronger stance by criminalising intentional wage theft under the Fair Work Act 2009 (FWA 2009), following the amendments introduced by the Fair Work Legislation Amendment (Closing Loopholes) Act 2023 (Simon & Serena, 2024). This law imposes severe penalties, including imprisonment and multimillion-dollar fines for individuals and companies that deliberately withhold wages and entitlements (Department of Employment and Workplace Relations, 2023; Simon & Serena, 2024). Honest mistakes, lack proper system, or delay payments without intent are treated separately under civil penalties, ensuring proportionality. The enforcement is robust, with the Fair Work Ombudsman (FWO) actively overseeing enforcement.

The following table provides a comparative framework which demonstrates the key differences between the Malaysian and Australian approaches to wage theft regulation and enforcement:

Table 1

Feature	**Australia (FWA 2009)**	**Malaysia (EA 1955)**
Legal Classification	Intentional underpayment is a criminal offense as of 2025.	Wage violations are primarily treated as civil or labour dispute.
Primary Penalty	Maximum prison term of up to 10 years for individuals.	Fines generally capped at RM10,000 for general breaches.
Enforcement Style	Ombudsman conducts random audits and inspections.	Department of Labour/Industrial Court focuses on investigating filed complaints.
Worker Status	FWO investigates regardless of immigration status.	Immigration status often used as a barrier to filing claims.

In summary, while both countries uphold international labour principles, Malaysia's framework is primarily protective and administrative, focusing on compliance and worker coverage, where Australia's approach is more comprehensive and punitive, directly criminalising wage theft and imposing harsher penalties for intentional violations.

The Form of Wage Theft

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has identified non-payment, late payment, illegal deductions and withholding statutory entitlements, and discriminatory wage setting as a common form of wage theft in the modern workforce (International Labor Organization, 2024; International Labor Organization, 2023). While both Malaysia and Australia align with ILO standards by addressing these issues legislatively, their enforcement, protection scope and system responsiveness differ, highlighting distinct strengths and challenges.

A. Non-Payment of Wages

Non-payment of wages refers to failing to pay workers the full amount due at the end of a pay period, which may indicate forced labour when done deliberately and systematically (Harkins, 2020). When workers are not paid at all for their labour, they lose their ability to afford essential expenses like housing, utilities, food and healthcare. This financial strain often forces workers into high-interest loans or the sale of personal belongings, and in the most extreme cases, it can lead to homelessness. The lack of wages also undermines long-term financial stability, eroding retirement savings and forcing employees to work longer hours, which sacrifices valuable family time and well-being. This pressure contributes to stress, anxiety, and despair that can lead to serious physical health issues, including chronic illnesses and reduced life expectancy (Cavanaugh and Blain, 2019). To address this, the ILO has adopted the Fundamental Principles and Rights at Work to protect workers from forced labour and non-payment of wages (International Labour Organization, 2022).

In Malaysia, non-payment of wages breaches the contract under Section 15 of the EA 1955, since it affects its core obligations as stated in *Ngeow Voon Yean v Sungei Wang Plaza Sdn Bhd / Landmarks Holding Bhd* [2006] MLJU 219. Malaysian courts have consistently affirmed this, ruling that unpaid wages constitute a fundamental breach allowing workers to consider themselves constructively terminated, as seen in cases like *Parimaladevi a/p P Ponnusamy v Mahkamah Perusahaan Malaysia & Anor* [2009] MLJU 1692 and *Cekal Teguh Sdn Bhd v Mahkamah Perusahaan Malaysia & Ors* [2019] MLJU 1402. Furthermore, in 2021, the Industrial Court awarded RM43,200 in 12 months' back wages to Gauthaman, the maximum compensation permitted under the Second Schedule of the Industrial Relations Act, after he worked unpaid for two months in transport services (V Anbalagan, 2021).

A crucial aspect of Malaysia's approach is the protection extended to foreign workers, who are particularly vulnerable to exploitation, including those who are undocumented (The Straits Times, 2019). Despite the common challenge of undocumented status hindering claims, Malaysian Labour Courts have affirmed the right of all migrant workers to pursue unpaid wage claims under Sections 69 and 70 of the EA, irrespective of their immigration status, as seen in the case of an Indonesian worker who was allowed to claim nearly five years' worth of wages despite an initial dismissal due to her lack of a work permit (Wong & Farah, 2022). Similarly, in the case of *Fice Fransina Nenobais v. Lee Hee Chooi* [2020] 3 ILR 440 (HC), the High Court ruled in favour of an undocumented migrant worker, allowing her to claim over RM30,000 in unpaid wages from 2012 to 2017. This decision reaffirmed that all migrant workers are entitled to justice, regardless of their documentation status (Wong & Farah, 2022).

Similarly, Australia's Section 323 of the FWA 2009 protects employees against unpaid wages by requiring employers to pay amounts owed for work performed in full, in money and at least monthly (Fair Work Ombudsman, n.d.). This protection is grounded in the requirement of a valid contract and employment relationship, as established in the landmark case *Ermogenous v Greek Orthodox Community of SA Inc* [2002] 209 CLR 95. Additionally, Australia does not concern itself with the immigration status of workers during inspections and investigations, as workers have the same rights as Australian citizens as far as the Ombudsman is concerned. (Gay and Bosch, 2020). Examples of unpaid wages can be seen in 2018, involving over 120 Chinese plasterers at the Royal Hobart Hospital recovered $1.5 million in unpaid wages (The Construction & General Division of the Construction, Forestry, Maritime, Mining and Energy Union, 2020). Similarly, in 2019, the FWO recovered $81,638.82 for 167 employees following investigations into unpaid wages (Fair Work Ombudsman, 2019). A judgement in the case of *Minnie McDonald v Commonwealth of Australia* VID312/2021 by the federal government resulted in a historic $202 million settlement for Aboriginal and Torres Strait Islander workers affected by wage control laws from 1933 to 1971, providing long overdue justice to people who had their paychecks withheld throughout this time (Houlbrook-Walk, 2024).

The FWO has been active in recovering unpaid wages, having recovered more than $473 million in unpaid wages for nearly 160,000 employees in 2023-2024, bringing total recoveries of $1.5 billion annually for nearly 800,000 underpaid workers (Office of the Fair Work Ombudsman, 2024). This highlights the scale of enforcement compared to Malaysia's administrative recoveries. However, Australia allows for lawful unpaid work if it is a vocational placement required for education or training, as outlined in the FWA and the Social Security Act of

1991, covering Technical and Further Education (TAFE), university courses, or internships offered by government programs like PaTH (Fair Work Ombudsman, n.d.).

Both nations can be seen striving to combat non-payment of wages and have taken steps to address it, allowing affected workers to claim remedies. Workers, including undocumented workers, are formally protected in both nations. Nonetheless, both systems face ongoing challenges in fully eradicating wage theft, especially among vulnerable groups and informal sectors.

B. Late payment of wages

Late payment refers to the employer's inability to make payments within the agreed-upon time frame (Nurul Izzah, 2024). While it appears less severe than non-payment, its cumulative impact is substantial. Delays disrupt budgeting, causing workers to miss rent, utility payments or loan installments resulting in late fees and credit damage. The emotional strain caused by this instability affects both mental and physical health, which lowers productivity and morale (The Chartered Institute of Payroll Professionals (CIPP), 2019). Although the ILO Protection of Wages Convention, 1949 (No. 95) allows lawful wage deductions (Article 8 of the No. 95), repeated delays may indicate coercion, especially when used to prevent job changes. (International Labour Organization, 2023).

In Malaysia, Section 19(1) of the EA 1955 stipulates wage payments within seven days of the wage period. Non-compliance can lead to legal consequences as can be seen in 2024 where the Shah Alam Magistrate's Court in Selangor fined RM12,000 to a hospitality firm for late payments (Malay Mail, 2024).

Australia under Section 323 of the FWA emphasised that wages be paid in full at least monthly and in money as set out in the employment contract. Breaches can result in penalties from the FWO or relevant industrial tribunals and may be obliged to pay back wages and face legal action. Additionally, late wage payments can result in constructive dismissal allegations, however the consequences vary by case (JB Solicitors, 2023). In *Kylie Bruce v Fingal Glen Pty Ltd 17* [2013] FWC 3941, the Fair Work Commission (FWC) determined that four-day delay of wages payment insufficient for resignation, noting the employee had alternatives like reporting to the FWO. However, in *Bupa Aged Care Australia Pty Ltd v Shahin Tavassoli* [2017] FWCFB 3941, the FWC decided in favour of the employee, recognising repeated delays and ignored complaints, showing how severity and response options influence rulings.

Thus, both Malaysia and Australia have legal frameworks to ensure timely wage payments and protect workers from late payment of wages, reflecting international labour standards. Malaysia enforces clear statutory deadlines with direct penalties, while Australia takes a more interpretative approach, especially in constructive dismissal cases, where the circumstances, the extent of the delay and the employee's proactive measures playing an important role in judicial determinations.

C. Illegal Wage Deductions

Illegal wage deductions have the same effect as late payment of wages in which workers struggle to afford basic living expenses and are pushed into financial insecurity. In the broader economy, it can cause distortion in real cost of labour, enabling dishonest employers to cut costs unfairly and harming legitimate businesses, creating a "race to the bottom" that suppresses wage standards (Cavanaugh and Blain, 2019). The ILO only allows wage deductions to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award, with workers informed of the conditions (Article 8 of the No. 95). Deductions for obtaining or retaining employment are strictly prohibited (Article 9 of the No. 95).

In Malaysia, Section 24(1) of the EA strictly prohibits unauthorised wage deductions, with breaches incurring fines up to RM10,000.00 pursuant to Section 99A. Section 43 of the National Salary Consultative Council Act 2011 further states that an employer who fails to pay its employees without a valid reason is committing an offense. Section 24 outlines detailed rules on wage deductions in Malaysia. Certain deductions like overpayment recovery need no employee consent, while others, such as union fees require written employee consent.

Deductions for housing or third-party payments need both the employee's request and approval from the Director General of Labour. Generally, deductions cannot exceed fifty percent of monthly earnings, except in limited cases like housing loans. Malaysian courts have consistently upheld the sanctity of wages, as seen in the case of *Syarikat Permodalan Kebangsaan Bhd. v Mohamed Johari Abdul Rahman* [2004] 2 ILR 803, where the court firmly upholds that salary is a fundamental term of employment, and any unilateral reduction is unlawful, even during financial distress. Furthermore, the landmark case of *Airport Limo (M) Sdn Bhd v Syed Jamal A Nasir Syed Mustafa* [2007] 3 ILR 350 underscores that excessive wage deductions amounted to unjust dismissal ruling. Similarly, in *Lim Ban Leong v Gold Bridge Engineering & Construction Bhd* [2017] 2 LNS 0370, unilateral deductions without reinstatement as promised were held to be constructive dismissal. However, such deductions may be justified during financial hardship if there is clear communication and employee consent. Furthermore, unilateral deductions during shutdowns to reduce losses are generally disallowed as upheld in *Supportive Technology Sdn Bhd v. Chong See Wan* [2015] 1 LNS 1291, reinforcing the need for employee consent. However, exceptional circumstances, such as accommodating long medical leave as in *Norhayati Hussein v. JW Marriott Hotel Kuala Lumpur (Star Hill Hotel Sdn Bhd) (Jamhirah Ali)* [2017] 4 ILR 108, can allow for pay adjustments without prior notice.

Similarly, Australia mandates full payment for work performed under Section 323 of the FWA, with deductions permitted only in specific circumstances. As laid out in Section 324 of the FWA, deductions are only permitted if authorised in writing for the employee's benefit, permitted by an enterprise agreement, modern award, FWA order, or required by law or court order. Common lawful deductions include salary sacrifices, superannuation contributions and in some industries, meals and accommodation as provided in the Hospitality Industry (General) Award 2020 (Chamberlains, 2023). Employers may also reduce pay in lieu of notice if an employee over 18 quits without giving enough notice (Chamberlains, 2023). However, courts maintain that deductions must be reasonable and transparent. This was evident in the case of *Fair Work Ombudsman v. Glasshouse Mountains Tavern Pty Ltd* [2014] FCCA 1115 [121], where $495 was unlawfully deducted without consent. Similarly, in the case of *Australian Education Union v State of Victoria (Department of Education and Early Childhood Development)* [2015] FCA 1196, the Federal Court held that over $20 million had been wrongly deducted from teachers' salaries, resulting in civil penalties. In addition, in *Fair Work Ombudsman v Yogurberry* [2016] FCA 1290, illegal deductions led to fines of $146,000 for the company and $11,000 for its part-owner for exploiting employees along with a mandatory audit of all Yogurberry outlets.

Hence, Malaysia and Australia align with ILO standards on wage deductions but differ in approach. Malaysia employs a more structured framework with strict, detailed rules, clear limits and consent requirements, with strong court enforcement. Australia, while also requiring consent or legal mandate, emphasise the "fair and reasonable" nature of deductions, relying on judicial discretion to address unfairness.

D. Withholding Statutory Entitlements

Statutory entitlements are withheld when companies fail to legally mandated benefits such as minimum wages, overtime pay, leave entitlements, and superannuation. It harms workers' financial stability and long-term protection.

Firstly, the minimum wage is a core entitlement protected under the ILO's Minimum Wage Fixing Convention 1970 (No. 131), requiring countries to set legally enforced minimum wages that ensures workers' basic needs and prevent low pay (Article 2(1) of No. 131). Noncompliance by employers may result in penalties or other legal consequences, making it a crucial tool to combat low pay and inequality (International Labour Organization, 2023).

Malaysian enforces a minimum wage under Section 23 of the National Wages Consultative Act 2011 (Act 732), now set at RM1,700 per month, with significant fines up to RM10,000 per employee for non-compliance under Sections 43 with additional fines stated in Sections 44 to 47 (Jabatan Tenaga Kerja Semenanjung Malaysia, n.d.). For example, a security services company was fined RM12,000, and a cleaning company RM2,500 for failing to pay the 2024 minimum wage, violating Section 4 (Bernama, 2024). Meanwhile, Australia's national minimum wage is $24.10 per hour, or $915.90 per week for full-time workers (Fair Work Ombudsman, n.d.). Nevertheless, wage theft cases occur, including Domino's Pizza underpaying workers by up to $11 per hour, resulting in workers losing up to $10,000 annually (The Team, Employment Hero, 2024).

Secondly, withholding overtime wages violates the right to fair remuneration under ILO. The ILO Hours of Work (Industry) Convention (No. 1) of 1919, limits work to 48 hours weekly and eight hours daily, with total hours not exceeding 12 hours a day or 200 hours per month, unless exceptions apply (International Labour Organization, n.d.). According to ILO Hours of Work (Industry) Convention (No. 1) and Hours of Work (Commerce and Offices) Convention (No. 30) of 1930, overtime pay must be at least 1.25 times the regular wage (Article 6 of the No. 1), with many countries mandating 50% more (International Labour Organization, n.d.). The Working Time (Special Provisions) Recommendation, 1979 (No. 116) further insists overtime must always be paid at a higher rate set by the national authority (Article 19 of the No. 116).

At the Malaysia national level, overtime applies to work beyond eight hours daily or 45 hours weekly, including rest day and public holidays (Section 60A(3) of the EA; Section 60(3) of the EA; Section 60D (3) of the EA). It is capped at four hours daily and 104 hours monthly under the Employment (Limitation of Overtime Work) Regulations 1980. Employees earning RM4,000 or less are entitled to pay at 1.5 times their hourly rate of pay (Section 60A (3a) of the EA). This can be seen with the Klang factory case where the Bangladeshi workers were denied overtime despite working 12-hour shifts daily, including public holidays (Thomas, 2024). Australia also guarantees overtime pay under its National Employment Standards aligned with Section 62 of the FWA. It sets a maximum of 38 hours per week typically starting at 1.5 times the hourly rate for the first two hours and increasing thereafter from Monday to Saturday (Fair Work Ombudsman, n.d.; Seek, 2024). Sunday overtime is paid at double, and public holidays at 2.5 times the minimum hourly rate. Despite this, unpaid overtime remains common in industries like healthcare, education and hospitality. A report by The Centre for Future Work at the Australia Institute found Australians work almost five weeks of unpaid overtime annually, amounting to 10% of total working hours (Macdonald, 2023). For example, recently, hundreds of young Australian women sued jeweller Lovisa for unpaid overtime, including pre- and post-shift work (Kelly, 2025). While both countries uphold ILO standards, challenges in compliance persist.

Thirdly, the ILO sets minimum standards for leave entitlements including annual leave, paid maternity leave, sick leave, and long service leave. The Holidays with Pay Convention (Revised), 1970 (No. 132), ensures at least three weeks of paid annual, while the Maternity Protection Convention, 2000 (No. 183) and the Social Security (Minimum Standards) Convention, 1952 (No. 102) guarantee paid maternity and sick leave. (International Labor Organization, 2023).

For Malaysia, withholding paid annual leave, sick leave, and maternity leave is prohibited under the EA (Employment The Hero, n.d.), with leave entitlements ranging from 8 to 16 days annually (Section 60E of the EA), up to 60 days of sick leave (Section 60F of the EA) , and 98 days of paid maternity leave and allowance (Section 37 of the EA). On the other hand, according to the National Employment Standards (NES), employees in Australia are guaranteed four weeks of paid annual leave (Section 87 of the FWA), ten days of paid sick leave or carer's obligations (Section 96 of the FWA) and up to 18 weeks of paid parental leave at the minimum wage, alongside 12-months of unpaid leave (Section 70 of the FWA). While both countries ensure these entitlements, Australia offers longer paid leave durations overall.

Lastly, the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102) protects employees' rights to sufficient social security, including pensions and superannuation, ensuring economic security in retirement.

In Malaysia, this is implemented through the Employees Provident Fund (EPF), governed by the Employees Provident Fund Act 1991 (EPF Act) (KWSP Malaysia, n.d.). It requires monthly contributions from both employees and employers (Third Schedule of EPF Act). Non-compliance can lead to fines, imprisonment, and asset seizures. As of June 2024, a total of 13,820 employers representing 2.02% of the 685,399 employers registered with the EPF, failed to pay their employees' EPF contributions (The Star, 2024). Additionally, 12,787 company directors were barred from leaving the country as per Section 39 of the EPF Act 1991 due to unpaid contributions. Moving on to Australia, superannuation is regulated by the Superannuation Guarantee (Administration) Act 1992 (SGAA), with employers contributing 11.5% of an employee's ordinary earnings, rising to 12% by July 2025 (Australian Taxation Office, 2024). Employers who miss deadlines face a super guaranteed charge and other penalties (Australian Taxation Office, 2021). In the past year alone, Australian Taxation Office enforcement recovered $932 million in unpaid superannuation for 797,000 employees, reflecting strong regulatory oversight (Australian Taxation Office, 2024).

In conclusion, Malaysia and Australia have established comprehensive legal frameworks aligned with ILO standards to protect statutory entitlements which includes minimum wages, overtime pay, leave entitlements, and superannuation. It can also be seen that both nations uphold workers' rights, but Australia leads in benefit adequacy enforcement, while Malaysia focuses on statutory protection and formal coverage.

E. Discriminatory Wage Setting

The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) prohibits workplace discrimination based on race, colour, gender, religion, political opinion, national extraction or social origin. Likewise, the ILO Equal Remuneration Convention, 1951 (No. 100) upholds equal pay for men and women performing work of equal value. Despite these protections, discriminatory wage setting remains prevalent, especially affecting women and migrant workers. Globally, women earn around 20% less than men, with much of the gap driven by gender discrimination rather than differences in education or experience (Harkins, 2020; International Labour Organization, 2022). This wage gap limits financial security and reinforces systemic inequalities.

The wage gap in Malaysia is evident, as stated in a 2024 study by the Ministry of Human Resources, revealing that women earn 22% less than men for similar roles (Asia Pacific Career Development Association, 2024). Research by Khazanah Research Institute further highlights this disparity, showing that women receive only RM66.709 for every RM100 earned by men (Puteri & Hawati, 2024). This discrimination also affects migrant workers, particularly those from Bangladesh, Indonesia, Nepal, and the Philippines, who play essential roles in sectors like construction, manufacturing, domestic work, and plantations (Harkins, 2020; International Organization for Migration, 2023). Despite their essential contribution to Malaysia's economy, these workers are vulnerable to exploitation, enduring low wages, long hours, poor living conditions, and identity document confiscation (Best Council Malaysia, 2019).

Similarly, in Australia, the national gender pay gap is 11.5%, according to the Australian Bureau of Statistics (Workplace Gender Equality Agency, 2024). As of May 2024, full-time men earned an average of $2,014.30 per week, while women earned $1,782.80, an earnings gap of $231.50 or $12,038 yearly. Furthermore, it was discovered that wage theft poses a threat to Indigenous people. With full-time Indigenous males earning around $23,700 less and females earning $9,900 less yearly than their non-Indigenous counterparts (Howlett, 2016). Additionally, unemployed Indigenous males earn approximately $10,000 less than their non-Indigenous males, highlighting a significant wage gap and economic inequality between the two groups.

Therefore, both countries recognise wage discrimination, but Australia demonstrates better institutional commitment, whereas Malaysia still faces systemic gaps in combating entrenched inequalities.

Workers Access to Remedies

A. Malaysia

Under Malaysia's labour law framework, employment disputes are primarily handled by the Labour Court and the Industrial Court. The Labour Court, established under the EA, addresses individual disputes such as unpaid wages, allowances, retrenchment, or retirement benefits arising, as stated under Section 69 of the EA (Department of Labour Peninsular Malaysia, n.d.). A government official under the Director-General of Labour hears and decides such disputes. Meanwhile, the Industrial Relations Act 1967 (IRA) establishes the Industrial Court, addresses union-related and collective disputes, functioning more like an arbitral tribunal. For wage theft, employees earning RM5,000 or less may file a complaint with the Director-General of Labour, leading to a formal inquiry and enforceable order (Department of Labour Peninsular Malaysia, n.d.). Alternatively, under

Section 20 of the IRA, affected employees may claim constructive dismissal and seek conciliation through the Industrial Relations Department. If unresolved, the case can escalate to Industrial Court. This multi-tiered system, supported by Alternative Dispute Resolution (ADR), promotes early settlement and protects working relationships.

B. Australia

Meanwhile, under Australian labour laws, workers typically start by addressing the issue with the employer or seeking help from trade unions. If unresolved, they may report to the FWO, which can mediate or enforce compliance. For unpaid superannuation, the Australian Taxation Office (ATO) can investigate and recover the outstanding contributions. Legal claims for wage recovery, within a six-year limit, can proceed through Magistrate or Industrial Magistrates Courts, often starting with conciliation. If a matter is not resolved at conciliation, it proceeds to a court hearing, which is decided on the balance of probabilities. Claims for $20, 000 or less are conducted informally, and legal representatives are only allowed with the courts or conciliator's permission.

Cracks in the Legal Framework and Enforcement Gaps

Legal loopholes or omissions within labour statutes make it easier for wage theft to happen. In Malaysia, the Employment Act 1955 protects against wage-related offences such as non-payment, late payment, illegal deductions, discriminatory wage setting, and withholding statutory entitlements. However, these offences are often handled as civil proceedings, with punishments restricted to fines. The Act does not classify wage theft as a criminal offense, limiting deterrence and the potential to impose heavier penalties on offenders. In contrast, Australia's Fair Work Act 2009 provides harsher penalties, including heavy fines and criminal prosecution. Enforcement bodies like FWO are empowered to take proactive measures aimed at creating a culture of fairness and accountability in response to raising concerns that wage theft costs Australian workers up to $1.5 billion each year.

Even when laws are in place, this does not guarantee effective implementation. Enforcement agencies in both Malaysia and Australia encounter significant challenges in ensuring compliance with labor laws and recovering unpaid wages. In Malaysia, the Ministry of Human Resources (MoHR) is responsible for enforcing the Employment Act 1955, the Industrial Relations Act 1967, and the Minimum Wages Order 2024. However, enforcement tends to be reactive rather than proactive, and many workers, especially contractors, young people, migrants, and those in the informal sector avoid reporting issues due to fear of retaliation, lack of awareness or complex procedures (Bar Council Malaysia, 2019; Gay and Bosch, 2020). Even when informed, the claims can feel overwhelming or futile (Gay and Bosch, 2020). These enforcement difficulties are further compounded by a significant institutional and resource constraints, as Peninsular Malaysia has only an average of 300 labour officers to oversee a total workforce of 14.4 million employees. Adding to these barriers, the Special Pass under Immigrations Regulations 1963, which permits migrant workers to stay in Malaysia during legal proceedings, imposes financial and practical burdens. It costs RM100 per month, is typically limited to three months, and prohibits employment during the process (Gay and Bosch, 2020). These conditions not only drain workers' savings but also discourages them from seeking justice, leaving many silent and powerless to assert rights. (Ethical Trading Initiative, 2019).

In contrast, Australia's enforcement is relatively stronger, with the FWO conducting random compliance audits and inspections to ensure compliance with workplace laws. Agencies such as the FWC and the Australian Taxation Office (ATO) are tasked with upholding Fair Work Act 2009 and ensuring fair compensation. Despite this, enforcement is not without its flaws. A key obstacle is the lack of evidence available to support wage theft claims in cash or facing falsified records. This is particularly problematic in sectors like agriculture, hospitality and delivery service where precarious visa status and job insecurity deter workers from reporting violations (Australian Council of Trade Unions, 2021). This concern is reflected in enforcement data published by the FWO, which identified wage theft in nearly 46.3% of hospitality businesses and 47.1% of takeaway food businesses (Cavanough & Blain, 2019). Such findings reinforce the view that wage theft has become a systemic practice in industries heavily reliant on vulnerable workers. Further reinforcing this pattern, a Union NSW audit found that 78% of job advertisements targeting specific language groups advertised pay rates below the legal minimum award wage (Australian Council of Trade Unions, 2020).

On the employer side, wage theft is frequently fostered by a culture of noncompliance in particular sectors. In some cases, employers may be unaware of their legal obligations, allowing them to exploit employees without fear of repercussions. In other circumstances, companies conduct a cost-benefit analysis and conclude that the benefits of not fully compensating employees outweigh the possible costs or dangers of getting detected. Some employers may find the resources necessary to comply with employment law prohibitively expensive, therefore they choose wage theft over proper wage practices. This creates an unequal playing field, putting compliant business at a competitive disadvantage to those who violate the law.

Therefore, despite existing laws, wage theft persists in both Malaysia and Australia due to legal shortcomings and enforcement gaps. Malaysia's weak penalties and complex procedures hinder worker protection, while Australia, though stronger in enforcement, still struggles in high-risk sectors. Stronger laws, better enforcement and worker support are essential to close these gaps.

RECOMMENDATIONS

Malaysia can enhance its approach to combating wage theft by incorporating recommendations from Australia's Ending Wage Theft study, which can be framed under four broad areas (Cavanough & Blain, 2019).

Firstly, Malaysia needs to issue a concise statement that wage theft is unacceptable. To improve working conditions, the Employment Act 1955 should be amended to criminalise it, following the model of Fair Work Act 2009. Reforms should include imposing higher fines, jail terms for repeat offenders, and mandatory interest payments on recovered wages to compensate for lost income. Intentional misconduct should be treated as a criminal offense, while genuine mistake remains under civil law.

However, the primary difficulty lies in the "burden of proof" required for criminal convictions. Unlike civil disputes, criminal cases require proving intent "beyond a reasonable doubt," which is notoriously difficult in complex payroll disputes. Furthermore, Malaysia faces a significant institutional gap where the police force and the Public Prosecutions currently lack the specialised industrial expertise held by the Ministry of Human Resources. Without creating a dedicated Wage Theft Inspectorate, criminalisation risks overwhelming the judicial system with a backlog of under-investigated and unprosecuted cases.

Secondly, to improve compliance and make enforcement more effective, Malaysia should enable real-time wage monitoring to prevent wage theft, allowing unions and employees to audit payroll records. Empowering industrial courts to make enforceable wage orders and raising the small claims threshold would expedite recovery. Addressing the gender pay gap through mandatory pay audits and salary transparency is also essential.

The implementation challenge here is the digital divide and the high compliance for Small and Medium Enterprises (SMEs), which make up the bulk of Malaysian businesses. Transitioning to real-time monitoring requires expensive digital infrastructure that many employers may resist. Additionally, empowering unions to audit private payrolls may face political and cultural pushback in Malaysia's current industrial climate, where employer prerogative is strong and union density is low. This could lead to friction between private sector interests and regulatory bodies.

Thirdly, enforcement agencies need increased budgetary support to boost the number of labour inspectors and conduct frequent unannounced inspections. A Wage Recovery Fund should be established, and a data sharing system must be centralised to close existing information gaps.

The difficulty in this area is fiscal sustainability. Establishing a Wage Recovery Fund and a centralised data system requires significant long-term government investment, which may be difficult to secure amidst a competing national priority. Moreover, Malaysia's informal economy presents a massive barrier where data collection is nearly impossible for undocumented workers or gig workers who fall outside standard employment definitions. Relying on whistleblower incentives also poses a risk, as vulnerable workers especially migrant laborers often fear deportation or blacklisting more than they value the potential recovery of stolen wages.

Lastly, integrating wage theft prevention into a larger regulatory framework is critical for a fair and just labour market. This includes excluding non-compliant employers from government contract and forming a cross-ministry task force to coordinate labour, tax and immigration policies.

The main hurdle for this recommendation is inter-agency isolation. Coordinating efforts between the MOHR, Ministry of Home Affairs (Immigration), and the Inland Revenue Board (LHDN) is historically difficult due to overlapping jurisdictions and conflicting priorities. For instance, an immigration policy focused on deportation may directly conflict with a labour policy focused on keeping a worker in the country to testify in a wage theft case. Additionally, blacklisting employers from government contracts could have unintended economic consequences, such as business closures that lead to further job losses for the very workers the policy aims to protect.

CONCLUSION

In conclusion, this research examined the legal frameworks, legal loopholes and enforcement as well as potential solutions in both Malaysia and Australia. The findings reveal that wage theft manifests in various forms, including non-payment of wages, late payments, illegal deductions, discriminatory of wage setting, and withholding statutory entitlements, all of which erode worker rights. Wage theft has far-reaching consequences, causing not only individual hardship but also greater economic loss, widening inequality, and creating a labour ecosystem that favours exploitation over compliance.

This wage theft problem is rooted in legal loopholes and scattered enforcement mechanisms. Malaysia's Employment Act 1955 lacks the legal power and criminal measures required to deter deliberate violations, treating wage theft largely as a civil matter with penalties and civil actions imposed. This framework hinders accountability and permits abuse to go unchecked. Conversely, Australia has taken significant steps to criminalise wage theft through the Fair Work Act 2009, introducing greater deterrents and enforcement mechanisms. However, enforcement in the high-risk sector remains uneven, leaving many workers, particularly migrant workers and casual employees, exposed owing to evidential and systemic barriers.

In addition, both countries face significant enforcement challenges including limited awareness among workers, fear of retaliation, and burdensome legal process that discourages claims, leaving many people unable to recover wages. Some companies or employers take advantage of these loopholes, whether through ignorance, cost cutting motives, or intentional avoidance of duty, generating a cycle of noncompliance that weakens honest business.

To seal these cracks in the code, more enforcement mechanisms, such as real-time pay tracking, greater union development, and harsher fines for non-compliant employers are required. Only through fundamental reform can both nations achieve a fairer and more equitable workforce in which all workers are paid what they are entitled.

REFERENCES

1. *Airport Limo (M) Sdn Bhd v Syed Jamal A Nasir Syed Mustafa* [2007] 3 ILR 350.
2. *Ali Salih Khalaf v Taj Mahal Hotel* (2014).
3. Arifuddin, H., et al. (2024). Challenges and problems in labour law from the perspectives of Indonesia and Malaysia. *Malaysian Journal of Syariah and Law, 12*(3), 535–549. https://doi.org/10.33102/mjsl.vol12no3.1037
4. ASEAN-Australia Counter Trafficking. (2023). *Wage theft and forced labour among migrant workers in Southeast Asia: Impact of COVID-19 and policy responses*. Migrant Forum in Asia. https://mfasia.org/migrantforumasia/wp-content/uploads/2023/11/Nov-9-Final-MFA-WageTheft-design-215PM.pdf

5. Asia Pacific Career Development Association. (2024). *November 2024 Malaysia report*. https://asiapacificcda.org/malaysia-information/
6. Australia Northern Territory Law Reform Committee. (2023). *Report on wage theft*. https://agd.nt.gov.au/__data/assets/pdf_file/0013/1211143/wage-theft-report-2023.PDF
7. Australian Council of Trade Unions. (2020). *Wage theft: The exploitation of workers is widespread and has become a business model*. https://www.actu.org.au/wp-content/uploads/2023/06/media1449199d11-actu-submission-to-senate-economics-committee-inquiry-into-the-unlawful-underpayment-of-employee-remuneration-20200306-1.pdf
8. Australian Council of Trade Unions. (2021). *Insecure work in Australia*. https://www.actu.org.au/wp-content/uploads/2023/06/media1449507d20-actu-submission-senate-inquiry-into-insecure-work.pdf
9. *Australian Education Union v State of Victoria (Department of Education and Early Childhood Development)* [2015] FCA 1196.
10. Australian Taxation Office. (2021). *Super guarantee penalties*. https://www.ato.gov.au/businesses-and-organisations/super-for-employers/missed-and-late-super-guarantee-payments/super-guarantee-penalties
11. Australian Taxation Office. (2024). *How much super to pay*. https://www.ato.gov.au/businesses-and-organisations/super-for-employers/paying-super-contributions/how-much-super-to-pay
12. Australian Taxation Office. (2024). *Super action sees over $900 million super returned*. https://www.ato.gov.au/media-centre/super-action-sees-over-900-million-dollars-super-returned
13. Bar Council Malaysia. (2019). *Migrant workers' access to justice: Malaysia*. https://www.malaysianbar.org.my/cms/upload_files/document/Migrant%20Workers%20Access%20to%20Justice%20Report%20(28Nov2019).pdf
14. Barclay, D. E., Ting, J., & Sritharan, N. (2024). Unveiling wage theft: Exploring themes, implications and future directions. *Malaysian Journal of Business and Economics, 11*(2), 19–34. https://doi.org/10.51200/mjbe.v11i2.5736
15. Bernama. (2024). Four employers fined, charged for violating labour laws. *New Straits Times*. https://www.nst.com.my/news/crime-courts/2024/02/1017210/four-employers-fined-charged-violating-labour-laws
16. Bernama. (2024). Unscrupulous employers still not complying with minimum wage order: MTUC. *Awani International*. https://international.astroawani.com/malaysia-news/unscrupulous-employers-still-not-complying-minimum-wage-order-mtuc-468665
17. Billing, S., & Billing, S. (2024). *Closing loopholes: Wage theft: A new criminal offence*. HFW. https://www.hfw.com/app/uploads/2024/05/005936-HFW-Australia-Employment-Closing-Loopholes-Wage-Theft-A-New-Criminal-Offence.pdf
18. *Bupa Aged Care Australia Pty Ltd v Shahin Tavassoli* [2017] FWCFB 3941.
19. Cavanaugh, E., & Blain, L. (2019). *Ending wage theft: Eradicating underpayment in the Australian workplace*. The McKell Institute Victoria. https://mckellinstitute.org.au/wp-content/uploads/2022/02/McKell-Ending-Wage-Theft.pdf
20. *Cekal Teguh Sdn Bhd v Mahkamah Perusahaan Malaysia & Ors* [2019] MLJU 1402.
21. Chamberlains Admin. (2023). *Deductions from your employees' pay: When are they permitted?* Chamberlains. https://chamberlains.com.au/deductions-from-your-employees-pay-when-are-they-permitted/
22. *Criminal Code Act 1899*.
23. Department of Employment and Workplace Relations. (2023). *Closing loopholes*. Australian Government. https://www.dewr.gov.au/download/15937/compliance-and-enforcement-criminalising-wage-theft/35722/compliance-and-enforcement-criminalising-wage-theft/pdf
24. Department of Employment and Workplace Relations. (2023). *Criminalising wage underpayments and reforming civil penalties in the Fair Work Act 2009*. Australian Government. https://www.dewr.gov.au/download/15345/criminalising-wage-theft-consultation-paper/33151/criminalising-wage-theft-consultation-paper/pdf
25. Department of Labour Peninsular Malaysia. (n.d.). *Acts and guidelines*. Ministry of Human Resources. https://jtksm.mohr.gov.my/en/services/labour-complaint/acts-guidelines
26. Department of Labour Peninsular Malaysia. (n.d.). *Complaints*. Ministry of Human Resources. https://jtksm.mohr.gov.my/en/services/complaints

27. Department of Labour Peninsular Malaysia. (n.d.). *Labour case*. Ministry of Human Resources. http://jtksm.mohr.gov.my/en/services/labour-case
28. DNH (BD). (2023). *When can your employer deduct your salary?* Donovan & Ho Advocates & Solicitors. https://dnh.com.my/when-can-your-employer-deduct-your-salary/
29. *Employees Provident Fund Act 1991*.
30. *Employment (Limitation of Overtime Work) Regulations 1980*.
31. *Employment Act 1955*.
32. *Employment Act (Amendment) 2022*.
33. Employment Hero. (n.d.). *Leave entitlements in Malaysia*. https://employmenthero.com/my/blog/leave-entitlements/
34. *Ermogenous v Greek Orthodox Community of SA Inc* [2002] 209 CLR 95.
35. Ethical Trading Initiative. (2019). *Human rights due diligence in Malaysia's manufacturing sector*. https://www.ethicaltrade.org/sites/default/files/shared_resources/ETI%20Malaysia%20HRDD.pdf
36. *Fair Work Act 2009*.
37. *Fair Work Legislation Amendment (Closing Loopholes) Act 2023*.
38. Fair Work Ombudsman. (n.d.). *Maximum weekly hours*. Australian Government. https://www.fairwork.gov.au/tools-and-resources/fact-sheets/minimum-workplace-entitlements/maximum-weekly-hours
39. Fair Work Ombudsman. (n.d.). *Minimum wages*. Australian Government. https://www.fairwork.gov.au/tools-and-resources/fact-sheets/minimum-workplace-entitlements/minimum-wages
40. Fair Work Ombudsman. (n.d.). *Unpaid work*. Australian Government. https://www.fairwork.gov.au/starting-employment/unpaid-work
41. Fair Work Ombudsman. (2011). *Sham contracting and the misclassification of workers in the cleaning services, hair and beauty and call centre industries*. Australian Government. https://www.fairwork.gov.au/sites/default/files/migration/763/Report-on-the-preliminary-outcomes-of-the-Fair-Work-Ombudsman-Sham-Contracting-Operational-Intervention.pdf
42. Fair Work Ombudsman. (2019). *Unpaid wages recovered for Subway employees*. Australian Government. https://www.fairwork.gov.au/newsroom/media-releases/2019-media-releases/october-2019/20191001-subway-sica-media-release
43. Fair Work Ombudsman. (2024). *Criminalising wage underpayments and other issues*. Australian Government. https://www.fairwork.gov.au/about-us/workplace-laws/legislation-changes/closing-loopholes/criminalising-wage-underpayments-and-other-issues
44. *Fair Work Ombudsman v Glasshouse Mountains Tavern Pty Ltd* [2014] FCCA 1115.
45. *Fair Work Ombudsman v Yogurberry* [2016] FCA 1290.
46. *Fice Fransina Nenobais v Lee Hee Chooi* [2020] 3 ILR 440 (HC).
47. Gay, M., & Bosch, C. (2020). *Report on review of Malaysia's labour dispute resolution system*. International Labour Office. https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_dialogue/%40dialogue/documents/publication/wcms_740192.pdf
48. Harkins, B. (2020). Base motives: The case for an increased focus on wage theft against migrant workers. *Anti-Trafficking Review, 15*, 42–62. https://doi.org/10.14197/atr.201220153
49. Houlbrook-Walk, M. (2024). Federal government to pay up to $202m settlement to Indigenous workers, relatives in NT stolen wages class action. *Australian Broadcasting Corporation*. https://www.abc.net.au/news/2024-09-06/nt-indigenous-stolen-wages-class-action-commonwealth-settlement/104319936
50. Howe, J., Stewart, A., & Owens, R. (2019). Temporary migrant labour and unpaid work in Australia. *Sydney Law Review, 40*, 183–211. https://doi.org/10.2139/ssrn.3317982
51. Howlett, M., et al. (2016). Wages, government payments and other income of Indigenous and non-Indigenous Australians. *Australian Journal of Labour Economics, 19*(2), 58. https://www.curtin.edu.au/resources/file/faculty/fbl/ajle-vol-19-no-2-howlett-et-al.pdf
52. *Immigration Regulations 1963*.
53. *Industrial Relations Act 1967*.

54. International Labour Organization. (n.d.). *How to define a minimum wage?* https://www.ilo.org/topics/wages/minimum-wages/how-define-minimum-wage
55. International Labour Organization. (n.d.). *ILO Declaration on Fundamental Principles and Rights at Work*. https://www.ilo.org/about-ilo/mission-and-impact-ilo/ilo-declaration-fundamental-principles-and-rights-work
56. International Labour Organization. (n.d.). *ILO legal instruments*. https://www.ilo.org/about-ilo/how-ilo-works/ilo-organizational-structure/office-legal-adviser/ilo-legal-instruments
57. International Labour Organization. (n.d.). *Overtime*. https://www.ilo.org/media/314401/download
58. International Labour Organization. (1919). *Hours of Work (Industry) Convention, 1919 (No. 1)*.
59. International Labour Organization. (1930). *Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)*.
60. International Labour Organization. (1949). *Protection of Wages Convention, 1949 (No. 95)*.
61. International Labour Organization. (1949). *Protection of Wages Recommendation, 1949 (No. 85)*.
62. International Labour Organization. (1951). *Equal Remuneration Convention, 1951 (No. 100)*.
63. International Labour Organization. (1952). *Social Security (Minimum Standards) Convention, 1952 (No. 102)*.
64. International Labour Organization. (1958). *Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*.
65. International Labour Organization. (1970). *Minimum Wage Fixing Convention, 1970 (No. 131)*.
66. International Labour Organization. (1979). *Working Time (Special Provisions) Recommendation, 1979 (No. 116)*.
67. International Labour Organization. (2000). *Maternity Protection Convention, 2000 (No. 183)*.
68. International Labour Organization. (2022). *ILO 1998 Declaration on Fundamental Principles and Rights at Work and its follow-up*. https://www.ilo.org/sites/default/files/2024-04/ILO_1998_Declaration_EN.pdf
69. International Labour Organization. (2022). *Pay transparency can address the gender pay gap*. https://www.ilo.org/resource/news/pay-transparency-can-address-gender-pay-gap
70. International Labour Organization. (2023). *Guidance note: Wage protection for migrant workers*. https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_protect/%40protrav/%40travail/documents/publication/wcms_878658.pdf
71. International Organization for Migration. (2023). *Assessment of causes and contributing factors to migrant workers becoming undocumented in Malaysia*. UN Migration. https://www.iom.int/resources/assessment-causes-and-contributing-factors-migrant-workers-becoming-undocumented-malaysia
72. Isabelle. (2024). *Complete guide: EPF simplified for 2025*. Payroll Panda. https://www.payrollpanda.my/article/malaysian-employers-epf-guide/
73. Jabatan Tenaga Kerja Semenanjung Malaysia. (n.d.). *Minimum wage increased to RM1,700*. https://jtksm.mohr.gov.my/ms/media/keratan-akhbar/minimum-wage-increased-rm1700
74. Jayasingam, P., et al. (2020). *Rights and obligations under the employment contract during MCO and COVID-19 pandemic*. https://www.malaysianbar.org.my/cms/upload_files/document/Rights%20and%20Obligations%20under%20the%20Employment%20Contract%20During%20MCO%20and%20COVID-19%20Pandemic.pdf
75. JB Solicitors. (2023). *My employer didn't pay me on payday*. Mondaq. https://www.mondaq.com/australia/employee-rights-labour-relations/1303438/my-employer-didnt-pay-me-on-payday
76. Joshua Wu Kai-Ming. (2021). *Non-payment of remuneration as a ground for constructive dismissal*. https://joshuawu.my/non-payment-of-remuneration-as-a-ground-for-constructive-dismissal/
77. Kelly, C. (2025). Lovisa up against 300 members in class action lawsuit. *Ragtrader*. https://www.ragtrader.com.au/news/lovisa-up-against-300-members-in-class-action-lawsuit
78. KWSP Malaysia. (n.d.). *About us*. https://www.kwsp.gov.my/en/corporate/about-us
79. *Kylie Bruce v Fingal Glen Pty Ltd* [2013] FWC 3941.
80. Lau, S. (2024). *Minimum Wages Order 2024 gazetted*. Skrine Advocates & Solicitors. https://www.skrine.com/insights/alerts/december-2024/minimum-wages-order-2024-gazetted
81. *Lim Ban Leong v Gold Bridge Engineering & Construction Bhd* [2017] 2 LNS 0370.

82. Macdonald, F. (2023). *Short changed: Unsatisfactory working hours and unpaid overtime*. The Australia Institute. https://australiainstitute.org.au/wp-content/uploads/2023/11/Go-Home-On-Time-Day-2023-The-Australia-Institute.pdf
83. Malay Mail. (2024). In KL, four employers fined RM46,500 for paying workers' salaries late. *Malay Mail*. https://www.malaymail.com/news/malaysia/2024/02/24/in-kl-four-employers-fined-rm46500-for-paying-workers-salaries-late/119759
84. Messrs Gan & Zul, Advocates & Solicitors. (2021). *Salary reduction = forced pay-cut: How to make it legal?* Gan & Zul Law Office. https://www.ganzul.com/news/salary-reduction-forced-pay-cut-how-to-make-it-legal
85. *Minimum Wages Order 2024*.
86. *Minnie McDonald v Commonwealth of Australia* VID312/2021.
87. Mohamad Ezri Abdul Wahab. (2024). *International Migrants Day 2024: Migrants deserve dignity, fairness and justice*. Malaysian Bar. https://www.malaysianbar.org.my/article/about-us/president-s-corner/pressstatements/press-release-international-migrants-day-2024-migrants-deserve-dignity-fairness-and-justice
88. *National Wages Consultative Council Act 2011*.
89. Nazruzila Razniza, et al. (2023). Wages for work done: Is it time to legislate? *Asian Journal of Law and Governance*. https://myjms.mohe.gov.my/index.php/ajlg/article/view/21316/11970
90. *Ngeow Voon Yean v Sungei Wang Plaza Sdn Bhd / Landmarks Holding Bhd* (2006).
91. *Norhayati Hussein v JW Marriott Hotel Kuala Lumpur (Star Hill Hotel Sdn Bhd) (Jamhirah Ali)* [2017] 4 ILR 108.
92. Nurhidayah Abdullah et al. (2024). Critical insights into gig economy: A Peninsular Malaysia case study. *Journal of Ecohumanism, 3*(1), 11. https://doi.org/10.62754/joe.v3i1.5494
93. Nurul Izzah Ismail et al. (2024). Contractor's perspective on the effect of late payments in Malaysian construction industry. *International Journal of Business and Technology Management*.
94. Office of Industrial Relations. (n.d.). *Wage theft: What can I do?* Queensland Government. https://www.police.qld.gov.au/sites/default/files/2020-09/OIR-Wage-theft-factsheet.pdf
95. Office of the Fair Work Ombudsman. (2024). *Annual report 2023–2024*. Fair Work Ombudsman. https://www.fairwork.gov.au/sites/default/files/2024-10/office-of-the-fair-work-ombudsman-annual-report-2023-24.pdf
96. Official Portal of Department of Labour Peninsular Malaysia of Ministry of Human Resources. (n.d.). *Labour case*. https://jtksm.mohr.gov.my/en/services/labour-case
97. *Parimaladevi a/p P Ponnusamy v Mahkamah Perusahaan Malaysia & Anor* [2009] MLJU 1692.
98. Patriarca, C. (2020). *Policy brief no. 1: Justice for migrant workers: Creating an effective solution to address wage theft*. Migrant Forum in Asia. https://mfasia.org/policy-brief-no-1-justice-for-migrant-workers-creating-an-effective-solution-to-address-wage-theft/
99. Puteri Marjan Megat Muzafar, & Hawati Abdul Hamid. (2024). *Gender gap in the world of work: Status and progress*. Khazanah Research Institute. https://www.krinstitute.org/publications/gender-gap-in-the-world-of-work-status-and-progress
100. Rafizah Hassan, Hartini Saripan, Nurus Sakinatul Fikriah, & Ani Munirah. (2023). Amendments to the Employment Act 1955: An analysis of the key changes with reference to international labour standards: A positive improvement for Malaysia's employment regime? *International Journal of Academic Research in Business and Social Sciences, 13*(1), 154–166. https://hrmars.com/papers_submitted/15568/amendments-to-the-employment-act-1955-an-analysis-of-the-key-changes-with-reference-to-international-labour-standards-a-positive-improvement-for-malaysias-employment-regime.pdf
101. Seek. (2024). *A guide to overtime pay*. https://www.seek.com.au/career-advice/article/overtime-pay
102. *Social Security Act 1991*.
103. *Superannuation Guarantee (Administration) Act 1992*.
104. *Supportive Technology Sdn Bhd v Chong See Wan* [2015] 1 LNS 1291.
105. *Syarikat Permodalan Kebangsaan Bhd v Mohamed Johari Abdul Rahman* [2004] 2 ILR 803.
106. The Chartered Institute of Payroll Professionals. (2019). *The impact of late payments on London's small businesses*. Greater London Authority. https://www.london.gov.uk/who-we-are/what-london-assembly-does/london-assembly-press-releases/impact-late-payments-londons-small-businesses

107. The Construction & General Division of the Construction, Forestry, Maritime, Mining and Energy Union. (2020). *Submission to the Senate Standing Committees on Economics inquiry into unlawful underpayment of employees' remuneration*. Parliament of Australia. https://www.aph.gov.au/DocumentStore.ashx?id=59e76bf2-c36d-4c30-b7d1-d0a1dd64e2da&subId=679344
108. The Star. (2024). Over 600 company directors stopped from leaving Msia due to unpaid EPF contributions. *The Star*. https://www.thestar.com.my/news/nation/2024/08/28/over-600-company-directors-stopped-from-leaving-msia-due-to-unpaid-epf-contributions
109. The Straits Times. (2019). Malaysian court sides with forced labour victims over unpaid wages. *The Straits Times*. https://www.straitstimes.com/asia/se-asia/malaysian-court-sides-with-forced-labour-victims-over-unpaid-wages
110. The Team, Employment Hero. (2024). *Payroll scandals: 24 big Australian mistakes*. Employment Hero. https://employmenthero.com/blog/payroll-scandals-australia/
111. Thomas, J. (2024). Labour dept probes Bangladeshi workers' forced labour claims. *Free Malaysia Today*. https://www.freemalaysiatoday.com/category/nation/2024/09/05/labour-dept-probes-bangladeshi-workers-forced-labour-claims/
112. United Nations General Assembly. (1948). *Universal Declaration of Human Rights*.
113. V Anbalagan. (2021). Worker not paid 2 months' salary awarded RM43,000 for constructive dismissal. *Free Malaysia Today*. https://www.freemalaysiatoday.com/category/nation/2021/04/16/worker-not-paid-his-2-months-salary-awarded-rm43000-for-constructive-dismissal/
114. *Wage Theft Act 2020*.
115. Wong Keat Ching, & Farah Nabihah Sofian. (2022). *The voices of the exploited: Undocumented migrant workers' right to file a claim in labour court*. Zul Rafique & Partners. https://www.zulrafique.com.my/article-sample.php?id=2028
116. Workplace Gender Equality Agency. (2024). *The ABS data gender pay gap*. Australian Government. https://www.wgea.gov.au/data-statistics/ABS-gender-pay-gap-data