AI adoption cannot justify dismissal

A RECENT ruling by the Hangzhou Intermediate People's Court in China – declaring that replacing a worker with AI to cut costs does not legally justify termination – serves as a stark warning: rapid technological adoption cannot bypass established labour protections.

For Malaysia, where TalentCorp projects nearly 700,000 workers will face disruption from AI, digitalisation and the green economy within three to five years, this is a legal reality we must urgently confront.

Under the Industrial Relations Act 1967, terminations require "just cause or excuse". While companies will inevitably claim "redundancy" to justify AI-driven layoffs, procuring an enterprise AI licence is not a legal blank cheque.

The burden remains on employers to prove that a role has genuinely ceased to exist.

If a company dismisses junior staff but uses algorithms to produce the exact same volume of work – still requiring human prompting, editing and supervision – the role has simply evolved, not disappeared. Claiming redundancy here could be successfully challenged in the Industrial Court as a sham.

However, the most profound threat to our workforce is not a legally actionable layoff; it is "invisible displacement". This silent attrition occurs when departing employees are simply not replaced because AI absorbs their workload.

No termination letter is issued, and no legal claim arises, but entry-level opportunities permanently evaporate.

We must acknowledge the employer's reality: in a hyper-competitive global landscape, it is economically irrational to artificially sustain obsolete roles. The law can punish unfair dismissals, but it cannot compel companies to create new jobs.

While TalentCorp anticipates the emergence of 120 new high-value roles, placing the burden entirely on workers to aggressively upskill is a flawed strategy. We cannot rely on 20th-century labour laws to manage 21st-century technological disruption. We urgently need a new "digital social contract" bridging statutory reform and corporate governance.

First, the Human Resources Ministry must establish new guidelines explicitly defining "technological redundancy". The Industrial Court should not be left to interpret AI displacement using decades-old precedents designed for factory closures.

We need clear statutory definitions that distinguish genuine business restructuring from opportunistic AI cost-cutting.

Second, corporate governance must evolve. Adopting enterprise AI is a profound human resources event, not merely an IT procurement. Environmental, social and governance (ESG) standards should encourage internal workforce impact audits.

Before defaulting to silent attrition or redundancy, employers hold a duty of care to explore how at-risk workers can be transitioned to manage the very AI systems replacing them.

AI will undoubtedly alter existing roles, but more importantly, it will dictate the jobs companies choose not to create tomorrow. True job security in the algorithmic age requires not just an agile workforce but also updated labour laws and a corporate sector willing to take responsibility for its technological upgrades.

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