

Analysis of Law Enforcement Obstacles of Indonesian Occupational Safety and Health Law No. 1 of 1970 and Comparison of Amendments to Malaysian Occupational Safety and Health Law 2022

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ABSTRACT	ARTICLE DETAILS
Law enforcement is the enforcement of laws by authorities in society to ensure that they are implemented and obeyed by every citizen. The purpose of law enforcement is to maintain security, order, and stability in society, in addition to ensuring that every individual has equal rights and feels safe. The increase in workplace accidents and the lack of accountability indicate that the objectives of OSH law enforcement are not yet being achieved. Law enforcement is influenced by five factors: laws, law enforcement, facilities, society, and culture. Low criminal penalties are a factor triggering workplace accidents, as companies underestimate OSH laws. The continued rise in the number of deaths due to workplace accidents and the lack of sanctions imposed in the OSH law enforcement process are interesting to analyze. Therefore, this paper aims to analyze the obstacles to OSH law enforcement and efforts to address them in Indonesia. Meanwhile, in Malaysia, amendments to the Occupational Safety and Health Act (OSHA) were implemented in 2022. A detailed analysis of the implications of these amendments is crucial for understanding how these changes will impact occupational safety and health practices, developing more effective safety strategies, and ensuring compliance with the revised law. This represents a major step in standardizing safety regulations and improving the overall compliance framework in Malaysia. With a clear understanding of the background to the recent OSHA amendments, this analysis provides a comprehensive overview of the new challenges and opportunities in improving workplace safety and health, as well as key steps in achieving better safety and health targets for all workers in Malaysia. This analysis can also serve as a reference for Indonesia, as it still applies the long-standing Law No. 1 of 1970 concerning Occupational Safety and Health. KEYWORDS: Law enforcement constraints, OSH Law, Indonesia, 2022 AKKP Amendment; Workers' Rights; Occupational Safety and Health, Malaysia.	Published On: 30 January 2026 Available on: https://irijsh.com/

I. INDONESIAN

A. INDONESIAN OCCUPATIONAL HEALTH AND SAFETY LAW NO. 1 OF 1970

The Role of Law in Occupational Health and Safety Guarantees in Indonesia

The law plays a crucial role in ensuring the health and safety of workers in Indonesia.

Article 1, number 3 of Government Regulation Number 50 of 2012 concerning the Implementation of the Occupational Health and Safety Management System states that a worker is a person who carries out work to produce goods and services that meet the needs of themselves and the community.

Furthermore, as one of the government's efforts to ensure the fulfillment of workers' rights, Government Regulation Number 50 of 2012 concerning the Implementation of the Occupational Health and Safety Management System (hereinafter referred to as PP 50/2012) is an implementing regulation for Article 87 of Law Number 13 of 2003 concerning Manpower (hereinafter referred to as the Manpower Law), which outlines the importance of implementing an occupational health and safety management system.

Broadly speaking, workplace accidents can occur due to human factors (unsafe actions) and environmental factors (unsafe conditions). The first factor is the human factor (unsafe actions). Humans can cause workplace accidents, both on the part of workers/laborers and on the part of the company. For workers, a lack of training and education on the importance of OHS is a contributing factor to the high rate of workplace accidents. As a result, workers tend to ignore the importance of using PPE while working, leading to a high rate of workplace accidents. Meanwhile, on the company side, companies fail to consistently implement an OHS Management System in accordance with statutory regulations, contributing to the high rate of workplace accidents.

The next contributing factor to workplace accidents is environmental factors (unsafe conditions), which originate external to the individual. Environmental factors are not only defined as the physical environment but also include unsafe equipment and workplaces. Inadequate equipment can be a contributing factor to the high number of workplace accidents. Poorly maintained, outdated equipment that doesn't meet safety standards can increase the risk of workplace accidents, which not only reduces productivity but also threatens worker safety. Therefore, regular maintenance of work equipment is essential to ensure its continued functioning.

According to BPJS Ketenagakerjaan data, claims for Occupational Safety and Health Insurance (JKK) continue to increase year after year. In 2020, there were 221,740 JKK claims, increasing to 234,370 in 2021, 297,725 in 2022, and 360,635 claims for work-related accidents from January to November 2023 (Mediana, 2024). Due to the high number of workplace accidents and other factors that can contribute to them, health insurance is essential for workers. Article 1 of Law Number 40 of 2004 concerning the National Social Security System states that social security is a form of social protection aimed at ensuring a decent standard of living.

The legal entity established to administer the social security program is the Social Security Administering Body (BPJS). Based on its type, the BPJS is divided into two: BPJS Kesehatan (Health) and BPJS Ketenagakerjaan (Employment). One of its functions is to administer the work accident insurance program for workers.

Law Number 44 of 2015 concerning the Implementation of the Work Accident Insurance and Death Insurance Program also mentions work accidents, which are related to employment, including accidents occurring on the way from home to work or vice versa, and illnesses caused by the work environment. Therefore, a work accident can be defined as an event that prevents a worker from performing their work. Work Accident Insurance (JKK) is a benefit in the form of cash and/or health services provided when participants experience a work accident or illness caused by the work environment.

Article 48 of Law Number 44 of 2015 states that workers who experience an accident or illness caused by the work environment can receive Work Accident Insurance. Workers who suffer an illness due to a work accident, based on a doctor's certificate, are entitled to JKK benefits even after the employment relationship has ended. Workers will continue to receive JKK, provided the occupational illness arises within a maximum of three years of the termination of the employment relationship. Furthermore, Article 2 paragraph (3) of Presidential Decree No. 7 of 2019 concerning Occupational Diseases explains that diseases classified as occupational diseases include diseases caused by exposure to factors arising from work activities, based on the target organ system, occupational cancer, and other specifics. Furthermore, workers who experience a work accident or occupational disease can receive a return-to-work program based on the recommendation of a medical advisor so that workers can return to work as usual.

Based on data from the Ministry of Manpower (Kemnaker), in 2021 there were 234,370 cases of work accidents resulting in 6,552 deaths. This number increased by

5.7% compared to the previous year.

Ironically, most workplace accident cases end with compensation payments. Even when they do reach court, the sanctions imposed are very low, disproportionate to the losses incurred, as in the case of the explosion at the PT Marcopolo Shipyard in Tanjungcang. Two subcontractor workers died as a result of the explosion while cleaning a tank. The management of the subcontractor that supplied the workers to PT Marcopolo was found guilty by the Industrial Relations Court and fined only Rp 100,000.

B. OBSTACLES TO OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT

Law enforcement in workplace accident cases is also influenced by the attitudes of law enforcement officials. Soerjono Soekanto explains that the scope of law enforcement is very broad, encompassing those directly and indirectly involved in law enforcement, both those who create and implement laws. Therefore, regarding OHS, law enforcement officers include Civil Servant Investigators (PPNS) for employment, police, judges, labor inspectors, OHS auditors, and oil and gas inspectors. Each is governed by different regulations, which can give rise to sectoral egos. As occurred in Riau, where oil and gas inspectors and labor inspectors differed regarding OHS oversight authority. Labor law enforcers also often face a dilemma when taking firm action against companies because it concerns the well-being of workers. Based on data from the Ombudsman (2021), this occurred with labor inspectors in Bangka and Belitung.

Law enforcement is the implementation of the law by authorities in society to ensure that it is implemented and obeyed by every citizen. The purpose of law enforcement is to maintain security, order, and stability in society, in addition to ensuring that every individual has equal rights and feels safe. The increase in workplace accidents and the lack of accountability indicate that the

Analysis of Law Enforcement Obstacles of Indonesian Occupational Safety and Health Law No. 1 Of 1970 and Comparison of Amendments to Malaysian Occupational Safety and Health Law 2022

objectives of OSH law enforcement are not yet being achieved. According to Soerjono Soekanto, law enforcement is influenced by five factors: laws, law enforcement, facilities, society, and culture.

OSH law enforcement is also hampered by these five factors. First, it relates to legislation. Workplace accidents are regulated by several laws, including Law No. 1 of 1970 concerning Occupational Safety (OSH Law). The OSH Law has several weaknesses, including sanctions that are too lenient, making it difficult to create a deterrent effect. Another weakness is the unclear formulation of Article 15 paragraph (1) of the OSH Law, which does not specify which articles are subject to imprisonment and fines.

The limited facilities and infrastructure for OSH law enforcement are also a constraint. Labor supervisors and mediators also complain about the limited budget for supervision, as the scope of the areas to be monitored is very broad. Furthermore, the quality of supervisors is often outmatched by the quality of the company's human resources. Supervisors also often lag behind developments in science and technology, complicating the oversight process. The fourth factor hindering law enforcement comes from the public, namely a lack of understanding of the importance of occupational health and safety (Sari, A. M., 2023). Workplace accidents often occur because workers do not wear personal protective equipment. Furthermore, some companies lack concern for occupational health and safety, leading to workplace accidents, such as the one that befell workers at PT Marcopolo Shipyard.

Culture is the final factor hindering law enforcement. One factor influencing culture is communication. Good communication will bridge existing cultural differences.

C. EFFORTS TO OVERCOME OBSTACLES TO OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT

Based on the description of the five factors hindering law enforcement, efforts to improve the law enforcement process must begin with addressing these obstacles. The lack of clarity and lack of sanctions certainly require improvement. The Occupational Health and Safety Law needs to clarify the articles used as references for imposing sanctions. Sanctions for OHS violations also need to be toughened.

Coordination between law enforcement agencies also needs to be improved by establishing a team or task force comprising all involved parties, with a clear coordinator and authority. The formation of this task force also requires strong legal framework, such as the establishment of a human trafficking task force stipulated in Law No. 21 of 2007 concerning the Eradication of the Crime of Human Trafficking. To increase the professionalism and credibility of law enforcement agencies, strict sanctions must be imposed on officers who commit violations. Conversely, those who perform well should be rewarded.

The limited budget can be addressed by digitizing the monitoring system. Furthermore, a hierarchical monitoring system needs to be established, starting with the smallest group. Regarding the quality of supervisors and auditors, regular training, reskilling, and upskilling processes are essential, especially when new technology is used. Capacity building should not only be for labor inspectors but also for OSH experts within companies.

Education can improve public understanding, knowledge, and legal awareness in complying with OSH regulations. OSH should be taught from elementary school. Japan is one country that has taught OSH from an early age through kaizen. Distrust and dissatisfaction are the result of the indecisiveness of law enforcement officers. This obstacle will be overcome if law enforcement can improve their professionalism and credibility. Regarding fear of threats, protection for whistleblowers needs to be regulated in the OSH Law. Regarding cultural factors, the requirement for foreign workers to be proficient in Indonesian needs to be revised. Furthermore, new technology needs to be equipped with manuals in Indonesian.

Efforts to improve legislation can be undertaken jointly by the government and the Indonesian House of Representatives (DPR RI) through discussions on amendments to the OSH Law. Amendments to the OSH Law have been included in the 2020-2024 National Legislation Program, but have not yet been discussed. The material that needs to be included in the Occupational Health and Safety Law includes sanctions, reference articles, the formation of task forces, rewards and punishments, a tiered supervision system, skilling, reskilling, and upskilling, an educational curriculum, Indonesian-language manuals, and the requirement for foreign workers to be proficient in Indonesian.

II. MALAYSIAN

A. BACKGROUND TO THE 2022 MALAYSIAN OCCUPATIONAL HEALTH AND SAFETY AMENDMENTS

The 1994 Occupational Health and Safety Law is a crucial piece of legislation in the context of occupational health and safety protection in Malaysia. First promulgated on February 25, 1994, it was introduced by the former Deputy Minister of Human Resources, M. Mahalingam. Its primary objective was to establish minimum safety standards in the workplace, ensure that workers' health needs are met, and provide a legal framework for addressing occupational health and safety issues related to workers. The Deputy Minister's statement was also supported by Senator Datuk Hisamudin Yahaya during the Senate discussion of the Occupational Health and Safety Amendment Bill.

Although the original purpose of Law 514 was to establish minimum safety standards and ensure that workers' health needs were met, there are several shortcomings that need to be criticized. There are various interpretations in the protection of workers in the

Analysis of Law Enforcement Obstacles of Indonesian Occupational Safety and Health Law No. 1 Of 1970 and Comparison of Amendments to Malaysian Occupational Safety and Health Law 2022

informal sector and independent contractors, which are often ignored in the implementation of this law. The 1994 OSH Law uses a different approach than the 1967 OSH Law. The 1994 OSH Law was formed based on the principle of 'self-regulation', where more responsibility is given to employers to ensure safety in the workplace, as well as fostering cooperation and consultation between employers and workers. This principle emphasizes that responsibility for OSH must be shared by all parties who create and are exposed to risks.

However, this "self-regulatory" approach also has significant drawbacks. It relies on the willingness and ability of employers to implement adequate safety measures, which cannot always be guaranteed. Many employers fail to provide a safe working environment due to a desire to reduce costs, leading to high risks for workers. Furthermore, oversight by authorities is sometimes insufficient to ensure that all employers fully comply with the law. In 2022, the process of amending Law 514 began in response to new challenges and advances in occupational safety and health practices.

This process involved a comprehensive review of the effectiveness of existing provisions, discussions with various stakeholders, including employers, unions, and safety experts, and research on key issues affecting worker safety and health. After initial discussions and consultations, draft amendments were submitted to the relevant authorities for revision of the law, which was then submitted to parliament for discussion and ratification.

This process involved detailed analysis, debate, and refinement to ensure that the proposed amendments align with current needs and provide maximum benefits to all parties in the OHS field. However, criticisms have been raised regarding how some proposed amendments may not take into account realities on the ground, such as the financial constraints faced by small and medium-sized businesses in implementing major changes to their safety practices. Furthermore, despite consultations with various stakeholders, the voices of grassroots workers may have been less heard than those of large businesses and the government.

Ultimately, the latest amendments to Law 514 in 2022 were confirmed and became law, further strengthening the government's commitment to ensuring equitable and quality protection for the safety and health of workers across Malaysia. While this is a positive step, effective implementation remains a critical issue. Without strong enforcement and continued efforts to raise awareness, especially among small businesses, the impact of these amendments may not reach its full potential in protecting worker safety and health. The amendments to the Occupational Health and Safety Act, which came into effect on June 1, 2024, coincided with the repeal of the Occupational Health and Safety Act on the same date, creating legal regulations for the implementation of OHS issue. This could also reduce overlapping provisions between OSHA and OSHA, for example, regarding the management of chemical exposures.

B. SUMMARY OF LAW NO. 514

The OHS legal framework in this country is heavily influenced by UK law. Even in the UK, policy and legislative developments continue to evolve over time. However, Malaysian legislation is crafted and developed according to its own mold based on local industry conditions. The OHS legal landscape in Malaysia has several characteristics that differ from those practiced during the implementation of the OHS Act. Among these specific characteristics are the existence of an OHS Policy, an OHS Committee, an Industry Code of Conduct, Employer Obligations, Employee Obligations, a National OHS Council, and Enforcement and Investigations. Despite significant efforts since the AKKP was established in 1994, some changes still need to be made, in line with increasingly sophisticated technological developments.

The Occupational Health and Safety (OHS) policy established by the 1994 AKKP requires employers to formulate an OHS policy within their organization. This policy is considered the foundation for creating a safe work environment. Therefore, discussions about this policy should involve all levels of the organization, as it will serve as the primary guideline for safety and health for the organization. This policy must be clear, written in easy-to-understand language, and signed by the employer.

Furthermore, this policy also needs to be reviewed periodically to ensure its compatibility with the latest technological changes and advancements. By following this process, organizations can ensure that their health and safety policies remain relevant and effective in protecting employees. This policy requirement was previously exempted for micro-enterprises with fewer than five employees. Now, based on the 2022 amendments to the Occupational Safety and Health (OSH) Law, this Policy requirement is exempted for selfemployed individuals.

However, there has been criticism of the implementation of this policy, particularly among employers who do not give it due attention. Sometimes, policies are created simply to meet legal requirements without a real commitment to implementing them. This calls into question the effectiveness of the policy, particularly in small and medium-sized organizations that may lack the resources to implement it effectively. Article 30 paragraph (1) of the Occupational Safety and Health (OSH) Law requires employers to establish an OSH Committee if the organization has forty or more employees, or if instructed by the Director General.

The Committee's membership and procedures are regulated by law. Committee members include both employers and employees, and they must have the support of the entire organizational management. The functions of this committee, as stated in Article 31, include providing management with information on safety objectives, familiarizing employees with safety issues, and encouraging

cooperation among committee members. The committee is also responsible for implementing the OHS policies established by the employer.

Article 37 of the OHS Law introduces the concept of an industrial code of practice. An industrial code of practice can consist of "codes, standards, methods, specifications, or provisions relating to OHS" approved by the minister, or refer to documents issued by relevant authorities. Although not mandatory, the OHS Law allows the use of an industrial code of practice (OHS) as evidence in legal proceedings. Several codes of practice relating to various aspects of industrial safety have been formulated under the OHS Law. In line with this, SIRIM has developed an industrial standard on occupational safety and health, MS ISO 45001:2018, to replace the outdated OHSAS 18001 standard.

The purpose of this standard is to recommend best practices, integrate practical experience with scientific investigation, and enable rapid adoption. In the process of drafting the ISO MS, SIRIM established a working group to discuss relevant aspects, while the public was also given the opportunity to provide comments before the final draft was approved. The ISO MS can also be described as a code of practice (COP) that can help the industry implement OHS. Companies that successfully pass the evaluation of this standard will be awarded an ISO certificate to confirm that they have internationally recognized occupational safety and health management standards. While the use of the ICOP or COP is a positive step, it is still not legally binding (Adelstein et al. 2016).

This means that compliance with the COP is voluntary and may not be adhered to by all operators, especially those who see it as an additional burden. The lack of enforcement of the COP also raises questions about its effectiveness in improving OHS (Occupational Safety and Health) levels. This is because the ICOP does not have legislative authority like a law or regulation.

Article 15 paragraph (1) of the Occupational Safety and Health (K3) Act stipulates that employers have an obligation to ensure the safety of their employees in the workplace, including those affected by their activities. For those affected, operators are required to provide information on how they operate to ensure safety. Failure to comply with this regulation constitutes an offense under Article 17. The phrase "to the extent practicable" in Article 15 paragraph (1) of the K3 Act is open to various interpretations, but Article 3 paragraph (1) provides guidance on this matter, considering various factors including the level of risk, knowledge of the hazard, and the costs involved in mitigating the risk. However, the Occupational Safety and Health Act does not establish clear standards for assessing employer compliance with occupational safety and health standards. The COP uses standards of practice established by competent practitioners, while common law considers the employer's reasonable actions.

Court cases can help us understand the extent of an employer's obligations. The case of Sri Kamusan Sdn. Bhd. (2014) involved an accident on a palm oil plantation in Sabah that resulted in the death of an employee. The employee fell from the tractor while on a sharp curve, and the accident occurred after official working hours. The tractor the employee was riding was certified safe and in good condition as it had been regularly maintained in accordance with established safety standards. The High Court ruled that the employee was not working at the time of the accident, therefore Sri Kamusan did not violate OSHA Section 15(1). This decision highlights the importance of understanding the definition of "work" in the context of industrial safety law in Malaysia. This case can be used as an important reference for employer responsibilities under the 2022 OSHA amendments.

The recent amendments introduce stricter penalties and more detailed reporting requirements for safety incidents. This increases the burden of proof on employers to ensure the safety of their workers. The decision in the Sri Kamusan case provides guidance on how courts interpret employer responsibilities and the extent to which safety measures are considered adequate, particularly when workers are not on official working hours. The 2022 OSHA amendments reinforce the need for employers to take proactive steps and involve workers in safety programs to prevent accidents.

Meanwhile, in the case of Westports Malaysia Sdn. Bhd. (2021) charged the company with violating OSHA 1994 following an accident. A worker sustained serious injuries when the passenger elevator he was riding in failed and fell. Although the company claimed the elevator was maintained by qualified and registered DOSH personnel, the court found that Westports failed to ensure the worker's safety, resulting in the worker's serious injury.

The court emphasized the obligation of employers or workplace owners to ensure a safe workplace and comply with safety regulations established under OSHA. This decision highlights the importance of strict adherence to workplace safety laws to prevent accidents and protect worker welfare. This case provides a clear illustration of how the recent OSHA amendments in 2022 impact employer responsibilities. These amendments introduce more stringent penalties and expand the obligation to report safety incidents, increasing pressure on operators to more strictly comply with safety regulations. This case highlights the need for employers to be more proactive in implementing safety measures and ensuring their workers' protection, in line with the increased standards and requirements established by the recent OSHA amendments.

Section 24(1) of OSHA requires workers to exercise reasonable care, cooperate with their employers, and ensure workplace safety. Failure to comply with these regulations is an offense punishable by a fine or imprisonment under Article 24(2). Article 25 prohibits the destruction or misuse of provided safety equipment, which is punishable by a fine or imprisonment. Although the penalties imposed are quite severe, they are likely intended to ensure worker compliance and prevent damage to expensive safety equipment.

However, there are concerns about the effectiveness of these penalties. In some cases, workers may be unaware of their obligations or inadequately trained by their employers, leading them to inadvertently violate the rules. Therefore, greater emphasis should be placed on ongoing education and training to ensure that employees are fully aware of them.

C. FACTORS CONTRIBUTING TO CHANGES TO THE AKKP (LAW 514)

The AKKP (Law 514) is a crucial law aimed at maintaining the sustainability and protection of occupational health and safety. With changes in the labor landscape, technology, and awareness of workers' rights, there is a need to amend this law to be relevant to the current situation and future challenges. The latest amendments in 2022 represent a significant step towards strengthening worker protections and ensuring their safety and health are better protected. This article will discuss the reasons for the amendments to Law 514, the key changes introduced, and the implications and challenges of their implementation.

One of the main factors driving the amendments to Law 514 is rapid technological development. Technologies such as automation, artificial intelligence, and robotics have shifted the way work is done. While these technologies offer numerous benefits in terms of efficiency and productivity, they also introduce new risks that need to be carefully managed.

For example, the use of automated machinery in the workplace requires more sophisticated safety measures to protect workers from injury. New OHS technologies can reduce the risk of accidents and improve efficiency in risk management. Therefore, occupational safety and health laws need to be updated to address these new challenges and ensure worker safety.

Furthermore, increased awareness of workers' rights was also a key driver of the amendments to Law 514. Workers are now more aware of their rights to work in situations that are not risky and hazardous. This awareness has led to increased demands for stricter and more comprehensive regulations to protect workers. Lack of awareness and training among workers and employers, as well as weak enforcement by authorities, contribute to non-compliance with the law. Therefore, these recent amendments aim not only to strengthen legal provisions but also to increase understanding among industry players, including workers, about the importance of OHS.

The experience of developed countries such as the United Kingdom in enforcing OHS laws is an inspiration for Malaysia. In the UK, the Occupational Health and Safety Act 1974 is the primary law governing OHS and is considered more comprehensive with stronger enforcement mechanisms than Act 514 in Malaysia. For example, in the UK, the Health and Safety Executive (HSE) is responsible for ensuring compliance and enforcement of this law through rigorous inspections and sanctions.

This law has significantly reduced the incidence of work-related accidents and illnesses through strict enforcement and extensive awareness programs. This more proactive and stringent approach to enforcing safety laws can serve as a model for improving the implementation of Act 514 in Malaysia. The recent amendments to Act 514 introduce several new, stricter provisions to ensure that employers and employees comply with safety standards. For example, employers are now required to implement more comprehensive and technologically advanced occupational health and safety programs.

The designation of "Competent Persons" and "Training Providers" is being enhanced and must be registered with the Directorate General of DOSH. The use of technology is also being encouraged in OHS management. For example, the implementation of sensors and other new technologies to monitor hazardous conditions and safety management software to manage risks have been introduced to improve workplace safety. All of these new technologies require a "Competent Person" to manage and supervise them to reduce the risk of accidents or illness.

Furthermore, this amendment emphasizes the importance of training and awareness among workers and employers regarding the importance of OSH. Continuous training programs and awareness campaigns are crucial to ensure that workers and employers understand their responsibilities and comply with regulations. Weak enforcement can lead to non-compliance and high safety risks. Therefore, raising awareness and providing adequate training to workers and employers is a crucial step in ensuring the effectiveness of this amendment. Occupational Safety and Health Officers are required to undergo regular or ongoing training to earn "accumulated points" related to OSH aspects, allowing them to continuously improve their knowledge.

The small and medium-sized enterprises (SMEs) sector has faced several weaknesses in OSH compliance. Many SMEs are unaware of the importance of OSH and do not understand applicable regulations. The SME sector often lacks the financial and human resources to implement effective OSH programs. Not all workers and employers in this sector receive adequate OSH training, and there is a lack of oversight and enforcement by authorities, resulting in continued non-compliance.

Now, with the 2022 amendments to the OSH Law, new measures have been introduced to address these weaknesses. The amendments include the appointment of "OHS Coordinators" in workplaces, particularly in the SME sector. "OHS Coordinators" are responsible for assisting in the implementation and monitoring of OHS measures. They will play a key role in raising awareness, providing training, and ensuring compliance with established regulations, thereby reducing OHS risks in the sector.

Furthermore, adapting to new technologies requires significant time and resources, which can be a barrier for some organizations, particularly Small and Medium Enterprises (SMEs) and institutions with poor implementation of OHS regulations. Adapting to new

Analysis of Law Enforcement Obstacles of Indonesian Occupational Safety and Health Law No. 1 Of 1970 and Comparison of Amendments to Malaysian Occupational Safety and Health Law 2022

technologies requires investment in infrastructure and training. Therefore, it is crucial to provide sufficient support to SMEs to help them adapt new technologies in occupational health and safety management. Efforts to appoint "OHS Coordinators" had actually been underway in SMEs prior to the 2022 OHS amendments, but now they have been formalized in law.

Overall, the recent amendments to the Occupational Safety and Health Act (OHS) represent an important step towards strengthening worker safety protections in Malaysia. Despite the challenges of implementation, these changes provide a solid foundation for better protection and improved safety practices in the workplace. Taking into account technological developments, awareness of workers' rights, and experiences from other countries, it is hoped that these amendments will ensure more effective worker protection, thereby improving productivity and well-being in the workplace.

D. ANALYSIS OF THE AMENDMENTS TO LAW 514: A COMPARISON BEFORE AND AFTER THE 2022 AMENDMENTS

The Occupational Safety and Health Act 1994 is a key law aimed at ensuring OHS (Occupational Safety and Health). This law provides a comprehensive legal framework to protect workers from OHS risks in the workplace and ensures that employers implement the necessary measures to protect their employees. In 2022, amendments were made to update and further strengthen the protections provided by this law, in line with developments and changes in the industry and increasing awareness of occupational safety and health. The following is a comparative analysis between the Occupational Safety and Health Act 1994 and the amendments made in 2022.

E. INCREASED SANCTIONS

Furthermore, there has been discussion about the imbalance between sanctions and preventive measures in the amended Occupational Health and Safety Law. While increased sanctions are a welcome step towards improving compliance with the law, the importance of prevention still needs to be emphasized. If fines were more focused on correcting errors and remedial actions rather than simply imposing fines, this could provide a greater incentive for employers to proactively practice occupational health and safety.

One significant change in the 2022 amendments is the increased penalties for various violations. For example, the maximum fine under Article 49(2) has been increased from RM50,000 to RM500,000, and the maximum prison sentence has been reduced from five years to two years. These increased penalties reflect efforts to ensure stricter compliance with the Occupational Health and Safety Law. They are also intended to provide a stronger deterrent effect on employers and individuals who may violate OHS regulations (Kamal Halili et al., 2024). The changes in fines in the 2022 amendments are quite significant. For example, the fine under Article 19 increased from RM50,000.00 to RM500,000.00 (maximum). This represents a 900% increase, a significant increase. However, the prison sentence remains for a term not exceeding two years. This increase in fines is certainly intended to deter industry players from violating the relevant provisions.

TABLE 1. Penalty Differences

No	Article	Violation	Fines Before and After Amendment (Maximum penalty level)	Prison sentence (Maximum penalty level)
1	19	Violation of Articles 15, 16, 17, or 18, 18A, and 18B General Obligations of Employers	Before amendment: RM50,000.00 After amendment: RM500,000.00	2 years the (remains same)
2	23	Violation of Article 20 or 21 General Obligations of Designers, Manufacturers and Suppliers	Before amendment: RM20,000.00 After amendment: RM200,000.00	2 years the (remains same)
3	24 (2)	General Employee Duties	Before amendment: RM1,000.00 After amendment: RM2,000.00	3 months the (remains same)
4	25	Intentionally, recklessly or negligently interfere with or misuse anything provided or done in the interests of safety, health and welfare in accordance with this Act.	Before and after amendment: RM20,000.00 (same)	2 months the (remains same)

Analysis of Law Enforcement Obstacles of Indonesian Occupational Safety and Health Law No. 1 Of 1970 and Comparison of Amendments to Malaysian Occupational Safety and Health Law 2022

5	27(3)	Violation of Article 27 Discrimination against employees by employers or trade unions	Before amendment: RM10,000.00 After amendment: RM100,000.00	1 years the (remains same)
6	29 (5)	Violation of Article 29 Failure of the workplace owner to appoint a safety and health officer	Before amendment: RM5,000.00 After amendment: RM50,000.00	6 months the (remains same)
7	29a(4) new provisions	Failure to appoint one of the employees as the K3 coordinator if the workplace employs 5 or more employees, and the workplace is not included in the class or description of workplaces in the State Gazette based on article 29(1)	RM50,000.00	6 months
8	30(4)	Violation of Article 30 Failure of the employer to establish a workplace Safety and Health Committee	Before amendment: RM5,000.00 After amendment: RM100,000.00	Before amendment: 6 months After amendment: 1 year
9	51	General Punishment	Before the change: RM10,000.00 After the change: RM100,000.00	1 year (remains the same)

F. EMPLOYEE RIGHTS IN MALAYSIAN

Another aspect worth noting is the employee rights introduced by the 2022 amendments. While this is a positive step in providing protection for employees, these rights still need to be reviewed and further strengthened. Of course, these rights must be implemented properly and without pressure or negative rewards for employees who report violations or dangerous conditions. This requires an effective system to protect employees from retaliation or discrimination they may face as a result of exercising their rights. The 2022 amendments introduce new rights for employees. The new Article 26A "gives employees the right to withdraw from a dangerous situation after notifying their employer, if the employer fails to take action to eliminate the danger." This is an important step in protecting employees from serious or acute risks in the workplace. This right empowers employees to protect themselves and encourages employers to act quickly when faced with dangerous situations. It also reflects a growing awareness of employees' fundamental right to work in a safe environment.

The impact on small and medium enterprises (SMEs) also needs to be considered. These legal changes could increase the burden on SMEs, which may lack the resources or expertise to comply with the tightened regulations. Therefore, additional support and assistance are needed for this sector to ensure they can comply with the law without disrupting their business continuity. This could include providing financial assistance, technical guidance, or capacity-building support, particularly regarding workers' rights in the industry. Often, workers in SMEs do not understand their rights or lack an agency to represent them, such as a labor union.

TABLE 2. Employee Rights

No	Aspect	Before the Amendment	After the Amendment
1	Protection from Discrimination or Dismissal	Workers may not have clear protections against discrimination or dismissal related to reporting misconduct or dangerous situations	Workers are protected from any form of retaliation or discrimination for exercising their rights, such as reporting misconduct or withdrawing from a dangerous situation. Article 26A introduces new rights for workers who withdraw after notifying their supervisor of a danger that has not been eliminated.

Analysis of Law Enforcement Obstacles of Indonesian Occupational Safety and Health Law No. 1 Of 1970 and Comparison of Amendments to Malaysian Occupational Safety and Health Law 2022

2	Actions that can be taken by employees	Workers have limited options in fighting unfair actions in defending their rights.	Workers can take legal action if they experience retaliation, discrimination, or a violation of their rights. They can also seek assistance from occupational safety and health agencies or the courts to resolve disputes. Workers can take legal action if they experience retaliation, discrimination, or a violation of their rights. They can also seek assistance from occupational safety and health agencies or the courts to resolve disputes.
3	Safety awareness and protection	Workers lack legal protection that encourages awareness and proactive action in	The 2022 amendments encourage awareness and proactive action in ensuring OHS (Occupational Safety and Health) by
		ensuring K3 (Occupational Safety and Health).	introducing clearer rights and placing greater responsibility on employers.
4	Implications for Small and Medium Industries	Small businesses are burdened by regulations that do not provide adequate support or assistance.	These amendments could add burdens to small and medium-sized industries, which require additional support such as financial assistance and technical guidance to comply with the new regulations without disrupting their business continuity.

G. RESPONSIBILITIES OF EMPLOYERS AND LEADERS

The 2022 Amendments also add new responsibilities to employers and leaders. Employers now have an additional responsibility under Article 15(2)(f) to prepare and implement workplace emergency planning procedures. Prior to the 2022 Amendments, this requirement was not legally mandated but was undertaken voluntarily or "self-regulated" by employers. The new Article 18A requires management to ensure Occupational Safety and Health (OHS) for contractors working for them. This extends OHS responsibilities beyond direct employees to include contractors and external parties involved in business operations. This is crucial in an era where many companies use contract labor and third-party services, and ensures that high safety and health standards are applied to all individuals involved in company operations, regardless of their employment status. Prior to the 2022 Amendments, the relationship between employers and assignees, as well as contractors and subcontractors, was unclear. This makes it difficult to prove liability, especially if there are no clear provisions in the agreement. This is often the case in businesses involving small and medium-sized industries. Law enforcement can also be challenging if there are multiple contractors and their employees working together, as is often the case in the construction sector.

When the principal, contractor, and subcontractor work together on a project, each party has clear responsibilities for worker safety. The principal is primarily responsible for ensuring the Occupational Health and Safety (K3) of the contractors and subcontractors working under them. They must provide a safe working environment and procedures and comply with established safety standards. The contractor is responsible for implementing K3 within the work organization, including implementing appropriate safety procedures and ensuring employee compliance. Subcontractors must comply with safety instructions from the principal contractor or principal, as well as ensure the safety of their own employees in their daily operations. In terms of liability, the principal is typically responsible for the safety of the entire workplace, while contractors and subcontractors have more specific operational responsibilities. It is crucial to conduct comprehensive risk assessments and effective oversight to ensure that all parties comply with established safety standards and protect the safety of all employees involved in the project.

These new provisions are highly welcome, as many jobs and businesses are now performed by external parties through outsourcing or by appointing contractors or subcontractors to perform certain tasks.

H. CHANGES TO ORGANIZATIONAL STRUCTURE

The 2022 amendments also include changes to the organizational structure responsible for implementing the Occupational Health and Safety Law. For example, the new definition of "Director General" and the introduction of new roles such as "competent person" and "registered training provider" demonstrate an effort to strengthen the institutions overseeing the law's implementation. This ensures that those responsible have the qualifications and skills necessary to carry out their duties effectively, and that appropriate attention is paid to training and education in the field of occupational health and safety.

Analysis of Law Enforcement Obstacles of Indonesian Occupational Safety and Health Law No. 1 Of 1970 and Comparison of Amendments to Malaysian Occupational Safety and Health Law 2022

Furthermore, the amendments made under Articles 7A to 7D introduce new rules regarding the granting and revocation of licenses, and the replacement of licensed persons when their licenses are revoked. Article 9 has been amended to detail the membership of the H3 Council, which currently consists of 22 to 25 members, appointed by the Minister with specialist experience or knowledge in the H3 field. Furthermore, amendments to Article 34A introduce an obligation on owners or occupants to provide necessary assistance for the purposes of investigations under this Act, strengthening DOSH's role in enforcing OHS regulations. These changes expand DOSH's powers and responsibilities and ensure stricter compliance with OHS legislation

I. ADDITIONAL CHANGES AND NEW RULES 2022

The 2022 OSH Amendments introduce several key aspects that significantly improve OSH. Among these key aspects is the emphasis on occupational health services to monitor worker health and prevent work-related diseases, as regulated in Articles 28 and 28A. Occupational health issues are crucial, and so far no regulations have been developed to implement occupational health services more comprehensively. Multidisciplinary teams need to be established under the new Regulations to implement health services more efficiently and effectively. The focus has been largely on safety issues or workplace accidents, but not on employee health issues that can lead to illness or disability. Health risk assessments must now be conducted in all workplaces to identify health conditions and risks in the workplace (Article 18B). Risk assessments are now mandatory for employers and managers, in line with developments in many developed countries.

Part VIIA also regulates notification, installation, and inspection procedures for plant and equipment to ensure compliance with established safety standards. Furthermore, Article 29A establishes the role of a dedicated occupational health and safety coordinator for small and medium-sized industries, providing assistance and guidance to ensure compliance with safety regulations. Furthermore, Article 7A authorizes Licensed Persons to conduct occupational health and safety inspections in workplaces to enforce compliance with established safety standards. These measures demonstrate a deeper commitment to developing a safe and healthy work culture in Malaysia, protecting the overall well-being of workers.

The 2022 Occupational Health and Safety Amendments bring many positive changes that enhance OHS activities in workplace organizations. Increased sanctions, new employee rights, additional responsibilities for employers and management, and protection for whistleblowers are some of the key aspects that have been enhanced. Changes to the definition and organizational structure demonstrate a greater commitment to effective implementation and oversight. Overall, these amendments demonstrate the Malaysian government's continued efforts to maintain a conducive and safe work environment. These changes not only improve workplace safety and health but also encourage a more responsible and proactive work culture that addresses employee well-being. These amendments represent a positive step in increasing awareness and compliance with OHS laws and promoting a conducive work environment. Three new regulations were also introduced in 2024 to support the 2022 amendments to the Act:

i. OHS (Equipment Requiring a Certificate of Competence) Regulations 2024 ii. OHS (Registration Fees for Competent Persons and Registered Training

Providers) Regulations 2024 iii. Construction Works (Design and Management) Regulations 2024 Many other regulations are being prepared by DOSH to facilitate the implementation of the new OHS provisions. These regulations are important because they clarify in greater detail the roles and responsibilities of employers in ensuring effective OHS. With the enactment of regulations under the AKJ, new regulations under the AKJ need to be created to accommodate the gaps in the regulations introduced under the AKJ. The 2024 Construction Works Regulations are an example of filling the gap left by the repealed regulations on building construction under the AKJ. However, the new regulations under the AKKP contain new approaches and rules. The formulation of new regulations under the 2022 revised AKKP is not a migration measure that adopts all the principles and elements of the AKJ regulations. Adaptations are made in the new regulations under the 2022 revised AKKP to improve the efficiency of AKKP enforcement and take into account the latest technological developments.

III. CONCLUSION

A. Indonesian OHS Act

1. Workplace accidents remain prevalent in Indonesia, and the number of cases continues to increase year after year. The causes of workplace accidents are human factors (unsafe actions) and environmental factors (unsafe conditions). Therefore, the law plays a crucial role in ensuring the health and safety of workers in Indonesia. One of the government's efforts to protect workers is through the Occupational Accident Insurance (JKK). JKK is a program administered by the government through the Social Security Administering Agency (BPJS), which aims to provide social protection to workers in the event of a work accident or illness caused by the work environment.
2. The recurrence of workplace accidents and the significant number of casualties demonstrates that the goal of OHS law enforcement has not been achieved. The discussion reveals that law enforcement is hampered by factors such as legal ambiguity and indecipherability. Furthermore, a lack of coordination, professionalism, and credibility among law

enforcement officials is also a challenge. Law enforcement officials also complain that inadequate human resources and budgets make oversight difficult. From the public's perspective, there are also challenges in the form of a lack of understanding and indifference about the importance of OHS. A final obstacle is cultural differences that cannot be bridged through language, making it difficult to implement OHS regulations.

3. These obstacles need to be addressed through regulatory changes, improved law enforcement performance, the use of digital tools and multi-level supervision, enhanced public education, and the bridging of the gap between local and foreign cultures. The Indonesian House of Representatives (DPR RI), particularly Commission IX, needs to respond to the current state of occupational health and safety (K3) enforcement by immediately initiating discussions on amendments to the Occupational Health and Safety Law.
4. This data demonstrates the need for updated legislation, given the lack of alignment between facts on the ground and existing regulations. The use of collaborative governance theory to assist in legal reformulation, considering that workers are at the forefront of its formulation, is crucial. Therefore, collaboration among relevant stakeholders is necessary to ensure consistent legislation and ensure its relevance to changing times.

B. MALAYSIA'S OHS ACT

1. This article examines in depth the implications of the recent amendments to the Occupational Safety and Health Act 1994 (Act 514) introduced in 2022. These amendments aim to further strengthen the OHS provisions and ensure their relevance to the needs of modern industry. Through detailed analysis, this article provides an overview of how these changes impact workplace safety practices, shape more effective strategies, and ensure updated compliance with the law.
2. The Occupational Safety and Health Act 1994 in Malaysia is fundamentally inspired by the English legal model, placing responsibility not only on employers but also on suppliers, manufacturers, and workers. The OHS Act prioritizes the principle of 'self-regulation,' encouraging cooperation in ensuring satisfactory OHS. The amendment process undertaken in 2022 involved comprehensive studies and discussions with various stakeholders to ensure the effectiveness of existing provisions and address safety issues arising from changes in industry and technology. Among the key challenges discussed in this paper are non-compliance with the law, shortcomings in the implementation of occupational health programs, and adaptation to new technologies.
3. This amendment is also seen as a proactive step to align the law with current needs in maintaining worker safety across various industrial sectors. This paper also explains the history and background of Law 514 prior to the amendment, including key features such as the Occupational Health and Safety Policy, the Occupational Health and Safety Committee, and the obligations of employers and employees. The OSH policy mandated by this law plays a crucial role in creating a safe and healthy work environment. The OSH Committee is established to ensure effective cooperation and communication between stakeholders in the workplace.
4. Overall, this article emphasizes that occupational health and safety is not only the responsibility of the organization but also a fundamental right of employees. This recent amendment is seen as a positive step in strengthening OSH in line with the latest technological developments. With a clear understanding of the issues related to Law 514, more effective and far-reaching steps can be taken to achieve improved OSH targets while prioritizing the overall well-being of employees.
5. Therefore, this article successfully provides a comprehensive overview of the new challenges and opportunities in improving OHS, as well as the steps that need to be taken to ensure compliance and effectiveness of the revised law. The recent amendments to Law 514 represent a significant step towards achieving better OHS for all workers in Malaysia.

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