Practical guidelines for employers for promoting equality and preventing discrimination at work in Indonesia

External Support Resources For Equality Management At Companies
Book 5

External Support Resources for Equality Management at Companies

Code of practice
practical guide in five parts

<table>
<thead>
<tr>
<th>Code of practice for employers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Practical Guide in five parts:</td>
</tr>
<tr>
<td>1. Equality in Employment: Key Concepts and Principles</td>
</tr>
<tr>
<td>2. Business Case for Equality</td>
</tr>
<tr>
<td>3. Equality in Company Practices</td>
</tr>
<tr>
<td>4. Managing Equality in the Workplace</td>
</tr>
<tr>
<td>5. External Support Resources for Equality Management at Companies</td>
</tr>
</tbody>
</table>

Indonesian Employers Association (APINDO)
International Labour Office (ILO), Jakarta
Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

International Labour Organization

*Practical guidelines for employers for promoting equality and preventing discrimination at work in Indonesia* (Code of practice and practical guide in five parts) Jakarta, International Labour Organization, 2013


*ILO Cataloguing in Publication Data*

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Printed in Indonesia
## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreword APINDO</td>
<td>vii</td>
</tr>
<tr>
<td>Foreword ILO</td>
<td>ix</td>
</tr>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>1. Employers’ organizations</td>
<td>3</td>
</tr>
<tr>
<td>2. State authorities, workers’ organizations and civil society groups</td>
<td>5</td>
</tr>
<tr>
<td>3. Learning from overseas experiences</td>
<td>7</td>
</tr>
<tr>
<td>4. ILO sources of information</td>
<td>9</td>
</tr>
<tr>
<td>Bibliography</td>
<td>11</td>
</tr>
</tbody>
</table>
Summary contents of the Code, the other Guide booklets and lists of cases, figures and tools

**Code of Practice for Employers:**
1. Introduction
2. Guiding Principles To Promote Equal Opportunity And Treatment And Prevent Discrimination At Work
3. Possible Methods Of Implementation

**Practical guide in five parts:**

**Booklet 1: Equality In Employment: Key Concepts And Principles**
- Foreword
- Introduction
- What does equality and non-discrimination at work mean?
  1.1 What is equality and non-discrimination at work?
  1.2 Non-discrimination: Key concepts in ILO Convention No. 111 and Indonesian law

**Booklet 2: Business Case for Equality**
1. Why should employers care about equality?
2. What can employers do to promote equality?

**Booklet 3: Equality In Company Practices**
1. Fair recruitment practices
2. Fair treatment during employment
3. Creating a productive working environment
4. Equality in company business practices

**Booklet 4: Managing Equality In The Workplace**
1. Planning and implementing equality measures
2. Dealing with discrimination related complaints

**Case Studies**

**Booklet 2: Business Case for Equality**
1. Case example 1. Compelling business case for workplace partnership, diversity and equality – Ireland
2. Case example 2. Female leadership and company profitability
3. Case example 3. Diversity management in European companies

**Booklet 3: Equality In Company Practices**
1. Case example 4. Discriminatory use of selection tests – United Kingdom
2. Case example 5. Gender stereotypes in Indonesia
3. Case example 6. Good practices on maternity protection from PT. Dewhirst Company
4. Case example 7. Dhamawangsa Hotel Jakarta and persons with disabilities

**Booklet 5: External Support Resources For Equality Management At Companies**

1. Case example 8. Hong Kong Equal Opportunities Commission – Hong Kong, China

**Figures**

**Booklet 1: Equality In Employment: Key Concepts And Principles**

1. Figure 1: Three components of discrimination definition under Convention No. 111

**Booklet 4: Managing Equality In The Workplace**

1. Figure 2: Basic steps of equality management

**Tools**

**Booklet 1: Equality In Employment: Key Concepts And Principles**

1. Management tip 1. Prohibited grounds for discrimination
2. Management tip 2. Recognize different forms of discrimination

**Booklet 2: Business Case for Equality**

1. Management tip 4. Think about your business...
2. Management tip 5. Discrimination in SA8000 and ISO26000
3. Management tip 6. Checklist: How well is your business is doing in equality management?

**Booklet 3: Equality In Company Practices**

1. Management tip 7. Criteria that should not be in job advertisements
2. Management tip 8. When can a personal characteristic be an inherent requirement of the job?
3. Management tip 9. Be aware of your bias
4. Management tip 10. Interview do’s and don’ts
5. Management tip 11. How to define “value” of a job?

**Booklet 4: Managing Equality In The Workplace**

1. Management tip 12. Non-discrimination road map
2. Management tip 13. Sample equal opportunity policy
3. Management tip 14. Examples of special equality measures adopted at company level – New Zealand
4. Management tip 15. Remember the role of middle managers and supervisors
Practical guidelines for employers for promoting equality and preventing discrimination at work in Indonesia
Foreword APINDO

Principle of equality and non-discrimination at the workplace are basic labour principles that have been included in the Manpower Act, Law No. 13, 2003. Basically, the principles aim to uphold the principles of human dignity in social and economic justice. In the business community, the principles have also been accepted as universal standard in achieving market efficiency and sustainable economic development.

Policy arrangements have been made by the government to support the application of the principle of equality and non-discrimination. A number of companies also have specific policies to apply the principles. However, some challenges are still present in practice. Discriminatory practices at the workplace are often encountered. Women, minorities, and other vulnerable groups still have great possibilities to be treated in discriminatory manner.

By issuing these Code of Practice and Practical Guide for Employers for Promoting equality and preventing discrimination at work, APINDO has taken a pro-active initiative to assist the employers in Indonesia to apply the principle of equality and non-discrimination at the work place. The Code of Practice contains general principles taken from the labor law in Indonesia as well the ILO Conventions, especially the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and Equal Remuneration Convention, 1951 (No. 100). The Practical Guide contains the application such general principles into practical steps. This Practical Guide is divided into 5 booklets by theme so that it is easier to use.

We would like to thank the ILO Office Jakarta and the ILO MAMPU project that have provided technical assistance in the development and publication of this Code of Practice and Practical Guide. We hope that these two materials could offer advice and benefit not only for employers but also for APINDO’s partners i.e. workers and government, to jointly implement the principle of non-discrimination and equality at work.

Jakarta, October 1st, 2013

Sofjan Wanandi
Chairperson
National Board of the Indonesian Employers’ Association (DPN APINDO)
Practical guidelines for employers for promoting equality and preventing discrimination at work in Indonesia
Foreword ILO

Non-discrimination and equal opportunities and treatment in employment are basic labour rights and are fundamental for the achievement of social justice and sustainable economic development in Indonesia. The principle of the right to equality in employment opportunities and treatment enables persons of all races, sexes, religions, social or ethnic origin, health status or disability to work their way out of poverty and to care for their families.

Equality of opportunity and treatment in employment is an integral part of the ILO’s Decent Work Agenda and the Decent Work Country Programme in Indonesia. The ILO promotes opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. The Discrimination (Employment and Occupation) Convention, 1958 (No. 111) was adopted by ILO member States in 1958 and was ratified by Indonesia in 1999. This remains the most comprehensive international instrument dedicated to the promotion of equality of opportunity and treatment in the world of work. Following ratification of the ILO Convention, Indonesia has included principles of equality in employment in its Manpower Act (Law No.13 of 2003). ILO Convention No.111 and the Manpower Act provide the framework for the guidance provided in this Practical Guide and Code of Practice on equality in employment.

Successful employers understand that pursuing equality at work provides a competitive advantage over companies and employers who engage in discriminatory practices. Through the application of principles of equality and non-discrimination, employers are able to attract and retain the best talent, support greater innovation and enjoy productive working environments. The elimination of discrimination in employment is also an integral to pursuing a fair globalization.

This Practical Guide and Code of Practice was developed through a partnership between the ILO MAMPU project and APINDO. The Guide is divided into five separate booklets. It has been designed to support practical understanding by employers on how to apply principles of equality in employment in their workplaces.

It is our hope that this Guide and Code of Practice for employers on promoting equality and preventing discrimination at work in Indonesia will inspire employers to promote and realize principles of equality and non-discrimination in their workplaces.

October 1\textsuperscript{st}, 2013

Peter van Rooij
Director, ILO Jakarta Office
Foreword

The ILO MAMPU – Access to Employment and Decent Work for Women Project is promoting equality in employment for women workers. This is being pursued through various strategies, including through partnerships and capacity building with employers in Indonesia. Employers’ commitment to addressing discrimination in employment and active promotion of equal employment opportunities are crucial steps towards achieving substantive equality for women in Indonesia.

Women who are from minority ethnic or religious groups or who have a disability or health issue such as HIV and AIDs are often vulnerable to multiple forms of discrimination and face a double disadvantage in the labour market. Recognizing the particular vulnerabilities of these women and that gender-based discrimination is only one of many forms of discrimination found in employment, this practical Guide and Code of Practice, developed with APINDO, provide guidance to employers on how to prevent and address discrimination in employment based on a range of grounds including sex, ethnicity, religion, race, social origin, national extraction, health status, disability and political opinion.

The Project would like to thank APINDO for its commitment to pursuing equality in employment and for the lead role it has taken in developing and disseminating practical guidance on equality of opportunities and treatment to employers in Indonesia.

The development of guidelines for employers on equality and non-discrimination in employment initially began in China through the work of Ms Marja Paavilainen, Ms Nelien Haspels and Mr Tim De Meyer. The MAMPU project would like to thank colleagues in the ILO Decent Work Team for their contribution to the development of this Guide and Code of Practice.

We would also like to express our gratitude to Australian Aid, the donor of the ILO MAMPU Project, for their generous support and commitment to promoting equality in employment for women in Indonesia.

It is our hope that employers will use this Guide and Code of Practice in their hiring, firing and human resource decision-making processes in the future.

October 1st, 2013

Miranda Fajerman,
Chief Technical Adviser
MAMPU – Access to Employment and Decent Work for Women Project, ILO Jakarta
INTRODUCTION

It is with great pleasure that the Indonesian Employers’ Association (APINDO) in cooperation with the International Labour Office (ILO), presents this Code of practice and the accompanying Guide booklets, to assist employers in promoting equality and preventing discrimination at work in Indonesia.

The Guide comprises five booklets:

1. Equality in Employment: Key Concepts and Principles
2. Business Case for Equality
3. Equality in Company Practices
4. Managing Equality in the Workplace
5. External Support Resources for Equality Management at Companies

We hope that you use this Guide and find it effective. We welcome feedback on subsequent improvements in your equality and non-discrimination policies.
Access to advice and support from external support organizations and business networks was identified as a key to successful implementation of equality practices in companies, especially in SMEs, by two studies conducted by European Commission in 2005 and 2008. Due to their ability to bring businesses together to share their experiences and good practices in implementing equality measures, employers’ organizations play an important role in realizing the business case for equality in companies.

Also in Indonesia, APINDO, IWAPI and other associations of employers and businesses are in a key position to promote equality in their member companies. Employers’ organizations should play an active role, and provide their member companies services tailored to their needs.

Guidelines for action by employers’ organizations

1. Information and advice:
   - Provide member companies information on national labour legislation, international labour standards and other guidelines (such as internal buyers’ compliance benchmarks).
   - Offer guidance on good human resource management practices, such as non-discriminatory recruitment procedures.
   - Document good practice examples among member companies and share these from enterprise to enterprise.
   - Assist member companies in formulating and implementing equality policies and programmes.
   - Advice member companies on resources for seeking further advice and guidance.

2. Programmes and networking
   - Develop and deliver training and capacity building programmes to members on fair employment practices.
   - Design and implement technical assistance programmes to provide practical coaching to member companies on how to develop their human resource management systems.

• Work with workers’ organizations and participate in tripartite cooperation to promote equality, or join multi-stakeholder initiatives for example in the framework of UN global compact or national initiatives.

• Organize regular networking and sharing sessions on key areas related to fair employment practices.

3. **Lobbying, facilitating dialogue and raising awareness**

• Raise awareness among member companies about the business case for equality.

• Engage with government, workers’ organizations and other relevant actors, for example civil society organizations, to influence the national policy on non-discrimination and identify further measures to promote equality.

• Engage with workers’ organizations and NGOs to implement campaigns and raise public awareness about equality.

Organizing regular networking and sharing sessions on issues related to good human resource management practices and fair employment are a key strategy in promoting equality in enterprises. These semi-informal gatherings, e.g. “human resource managers clubs”, can serve as a platform to sharing best practices among member companies. Through sharing, networking, and benchmarking organizations can learn from each others and adapt practices to stay competitive.²

**Useful links**

• APINDO – www.apindo.or.id

• Better Work Indonesia – www.betterwork.org/indonesia/

---

2. State authorities, workers’ organizations and civil society groups

State authorities

State authorities such as Ministry of Manpower and Transmigration (MOMT), the Ministry of Justice and Human Rights and the Ministry of Women’s Empowerment and Child Protection (MOWE) can advice employers on equality issues and good practices in their respective fields. For example, MOWE can provide employers advice on practical measures to ensure health of pregnant women and nursing mother in the workplace.

Workers’ organizations and social dialogue

Social dialogue is the key to success in addressing discrimination and promoting equality. At workplace level development and implementation of equality policies and plans should always be done in consultation with workers’ organizations and representatives of groups of employees directly concerned. Employers and trade unions can also jointly address discrimination by putting equality in their collective bargaining agendas at different levels. Likewise, national bipartite or tripartite mechanisms should be mobilized to promote equality.

Civil society groups

Local civil society groups, such as support groups for persons with disabilities, migrants’ rights groups and support groups for persons living with HIV and AIDS can be useful sources of information and guidance for employers. Also community groups and religious associations can help in finding practical solutions to situations arising in the workplace.

Useful links

- Ministry of Manpower and Transmigration - www.depnakertrans.go.id/
- Ministry of Justice and Human Rights - www.depkumham.go.id/
- Indonesian Breastfeeding Mothers’ Alliance
Practical guidelines for employers for promoting equality and preventing discrimination at work in Indonesia
Information sources from overseas can be useful to understand from other countries’ experiences. Good sources of information include websites of overseas employers’ organizations, state authorities, civil society organizations and professional networks.

One useful source of information is websites of overseas equal opportunities commissions. Equal opportunities commissions are specialized government agencies responsible for monitoring implementation of anti-discrimination measures. They often also have a mandate to examine complaints of discrimination. Currently, only few specialized agencies have been established in Asia. Among the few, Equal Opportunities Commission of Hong Kong, China, is an excellent example. Hong Kong Equal Opportunities Commission website includes a wealth of information and tips for managers in English and Chinese language.

Case example 8.

Hong Kong Equal Opportunities Commission – Hong Kong, China

Established in 1996, the Equal Opportunities Commission of Hong Kong, China, works against discrimination on the grounds of sex, marital status, pregnancy, disability and family status. It has investigation and conciliation powers; issues codes of practice and guidelines on equal opportunities; produces research on discrimination; and builds partnerships with enterprises and governmental and non-governmental organizations alike. A major achievement of the Commission has been the reform of the Secondary School Places Allocation (SSPA) system that for a quarter of a century had led to the systematic lowering of the best girls’ scores and scaling up of the best boys’ scores, and gender quotas that restricted girls’ access to the best schools arbitrarily.

The Equal Opportunities Commission (EOC) is an independent body, funded by the Government to implement anti-discrimination legislation in Hong Kong, including the Sex Discrimination Ordinance (SDO), the Family Discrimination Ordinance (FSDO), and the Disability Discrimination Ordinance (DDO). In the field of employment, the SDO protects all workers, including part-time and temporary workers as well as job applicants who are not yet employed. Unlawful acts under the SDO and FSDO include: direct and indirect discrimination on the grounds of sex, pregnancy, marital status, family status, sexual harassment and victimization. There are no specific provisions on equal pay for equal value, but
the SDO does prohibit discrimination in pay levels, and can be used for equal work for equal value cases.

Redress mechanisms include facilitating internal company procedures, taking a complaint to the EOC and/or instituting legal proceedings, including grants for legal assistance. When a complaint is taken to the EOC, the Commission starts with investigation, and then moves to conciliation where deemed appropriate. Most complaints under both the SDO and the FSDO relate to employment, in particular pregnancy discrimination and sexual harassment. The success rate of conciliation is relatively high – for instance, conciliation was successful in 71 per cent of sex discrimination cases between 1996 and 2008. Challenges in promoting equal pay for work of equal value include the lack of definitions of value and of legislation on specific job evaluation methods. Especially small and medium-size enterprises find implementation difficult.


Useful links

4. ILO sources of information

ILO tripartite constituents – governments and employers’ and workers’ organizations – adopted a Declaration on Fundamental Principles and Rights at Work in 1998. Elimination of discrimination in employment and occupation was included as one of the four fundamental principles and rights covered in this Declaration. Respect for these fundamental principles and rights at work is critical for human dignity and economic development, and in times of crisis they serve to prevent a downward spiral in labour conditions and build sustainable economies. The position of non-discrimination as one of the corner stones of ILO’s work was reaffirmed in 2008 in the Declaration on Social Justice for a Fair Globalization.\footnote{ILO: Gender mainstreaming strategies in decent work promotion: Programming tools (Bangkok, 2010).}

ILO publishes reports, guidebooks, good practice case studies and training materials to support ILO constituents in promoting equality and combating discrimination. Many of these materials provide practical guidance on improving human resource management in the workplace. ILO implements also technical cooperation projects supporting its constituents (governments, employers’ organizations and workers’ organizations) in assisting local enterprises in aligning their practices with the principle of equal opportunity and treatment at work.

Useful links

- ILO Better Work Indonesia – betterwork.org/indonesia/
- International Training Center of the ILO (ITC-ILO), http://www.itcilo.org/.
Practical guidelines for employers for promoting equality and preventing discrimination at work in Indonesia
Bibliography


“Absence of disability as a genuine occupational qualification”

“Guidelines for application forms design.”

“Interviewing procedure.”

“Pre-employment medical examinations.”

“Pre-hiring and post-hiring procedures.”

“Reasonable accommodation and unjustifiable hardship.”

“Recruitment advertisements.”

“Sex as a genuine occupational qualification.”

“Sexual harassment in the workplace.”

“The use of consistent selection criteria.”


–. *Tripartite guidelines on fair employment practices* (Singapore). Available at: http://www.fairemployment.sg [8 Sep 2010].


