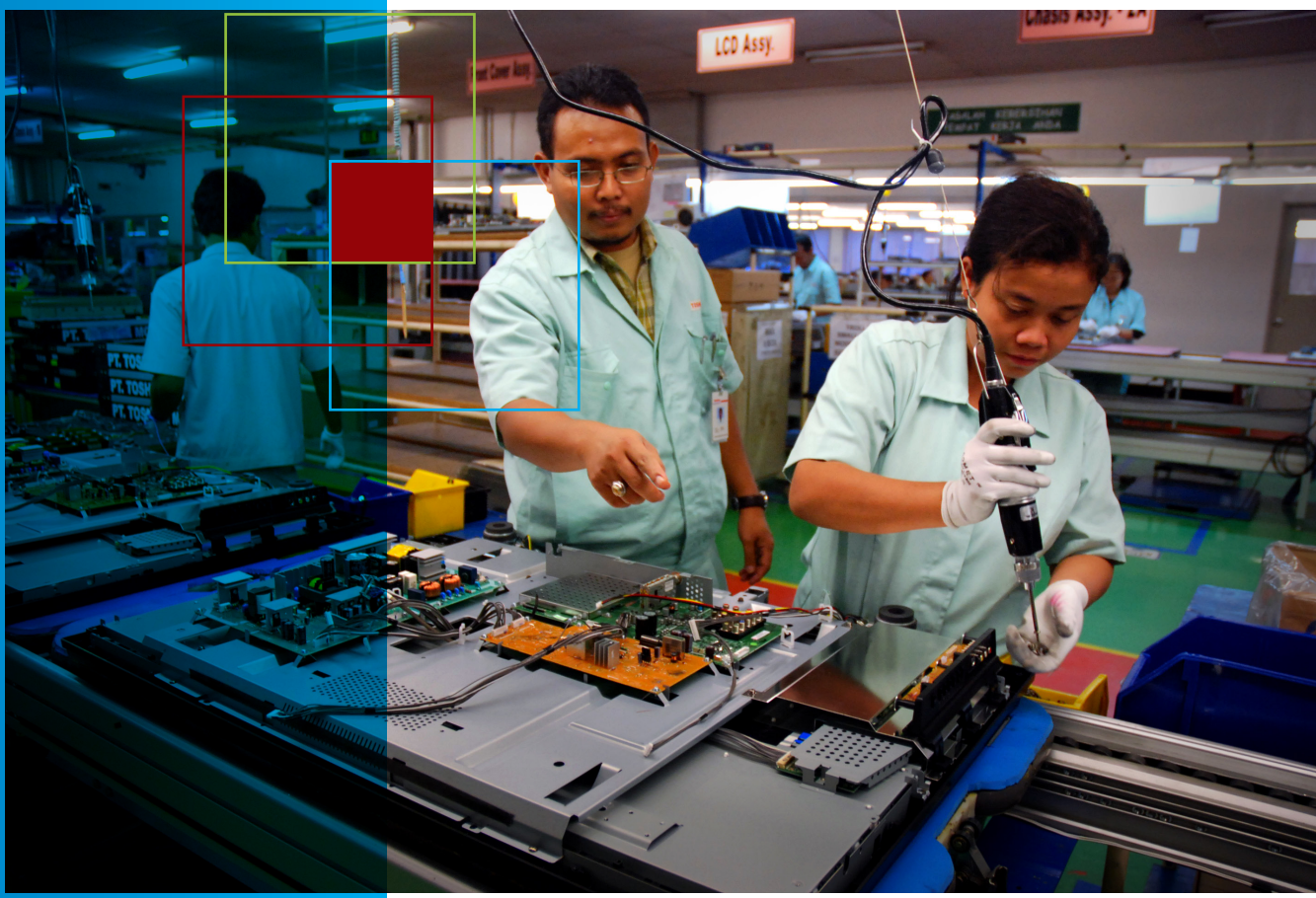
Australian Government
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Indonesian Employers' Association

International Labour Organization

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



Book 1

Equality In Employment: Key Concepts And Principles

Australian Government
Department of Foreign Affairs and Trade

Indonesian Employers Association

International Labour Organization

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

Book 1

Equality in Employment: Key Concepts and Principles

Code of practice
practical guide in five parts

	Code of practice for employers
	Practical Guide in five parts:
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

Indonesian Employers Association (APINDO)
International Labour Office (ILO), Jakarta

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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)

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 pursing 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 1st, 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.

Introduction

Equality and non-discrimination in employment and occupation is a fundamental right at work. All workers have the right to equal opportunities and treatment, and all employers have a corresponding responsibility to ensure that their enterprise or organisation is free from discrimination. In addition to the legal obligations of employers to promote equality, non-discrimination in employment also brings tangible benefits to the enterprise such as increased productivity and greater innovation. Promoting equality and non-discrimination makes good business sense, and is an important component in being a socially responsible employer. Corporate social responsibility (CSR) programmes can also involve actions to promote equality in the workplace and community.

This ***Guide for employers on promoting equal opportunity and treatment and preventing discrimination at work*** is issued by the Indonesian Employers' Association (APINDO) in cooperation with the International Labour Office (ILO) to provide members of APINDO with practical guidance on measures to promote equal opportunity and treatment and eliminate discrimination in their enterprise policies and practices. This Guide addresses practical questions that general managers, human resource managers, supervisors, workers' representatives and other enterprise staff need to consider in their daily work, including decisions related to recruitment, remuneration, employment relations, benefits, terms and

conditions of work, access to vocational training, advancement and promotion, as well as termination of employment contract, and business practices such as sourcing and marketing. The Guide gives practical guidance in these areas with a view to helping enterprises realize the business benefits related to equality.

This Guide is issued together with a ***Code of practice for employers on promoting equality and preventing discrimination at work in Indonesia*** articulating a set of guiding principles for employers and businesses on non-discrimination and equality at work. This Guide supplements the Code of Practice, by providing detailed practical guidance on the broad principles outlined in the Code of Practice. Employers are encouraged to use these two reference tools together to integrate equality and non-discrimination in their human resource and business practices, and to raise awareness about equality in their enterprise and among stakeholders.

This Guide consists of five parts. Part I provides practical guidance on what equality and non-discrimination mean. Part II highlights the business case for equality. It explains why it is in employers' interest to understand equality and what they can do to promote it. Part III provides step-by-step guidance for employers on how to ensure that enterprise recruitment and employment practices are free from discrimination. This section covers the whole employment cycle - from preparing non-discriminatory job descriptions and job advertisements to fair payment practices and procedures for carrying out retrenchments in a non-discriminatory manner. Part III also outlines also how to ensure the enterprise has a supportive, productive and inclusive workplace that takes all employees' needs into account, and how to incorporate equality in business practices. Part IV provides practical guidance on how to manage equality in the workplace. It outlines the basic steps of planning and implementing equality measures. Part IV also introduces some useful employer tools for managing equality – including equality policies, equality action plans and affirmative action measures. Part V provides references to external sources for additional information, support and guidance in implementing equality practices in the workplace.

1. What does equality and non-discrimination at work mean?

Equality and non-discrimination at work are two ways of saying the same thing: **Equality means the absence of discrimination**, and **discrimination means nullified or impaired equality**. The right to equality is a fundamental human right, guaranteed in both in the *Constitution of the Republic of Indonesia*, the Manpower Act (Law No.13 of 2033) and in international legal instruments ratified by Indonesia. Enterprises have a responsibility to respect the principle of equality, both as employers and as economic actors.

As employers, enterprises should ensure that equality and non-discrimination principles are respected in all **human resource practices**, including -

- Recruitment
- Remuneration
- Social or other employment benefits
- Terms and conditions of work
- Access to vocational training, advancement and promotion
- Termination of employment contract

The principle of equal opportunity and treatment applies to **all workers** in an enterprise, working for the enterprise from an external location, or associated to the enterprise, including part-time workers, casual workers, subcontractors, outsourced workers and those on commission.[1] Employers should follow the guidelines set out in this Guide and the ***Code of practice for employers on promoting equality and preventing discrimination at work in Indonesia*** issued by APINDO in cooperation with the ILO to ensure that no form of discrimination is tolerated in the workplace. All managers, supervisors and staff in the enterprise share a responsibility to respect the principle of equality and to exercise tolerance and understanding towards diversity to enhance workplace harmony and trust.

Enterprises should also promote equality and non-discrimination in their **business practices with third parties**. This means that all customers and clients should be treated equally regardless of their social origin, religion, ethnicity, if they have a disability or other personal characteristics, and company marketing and PR materials should be made free from any (implicit or explicit) discriminatory or stereotyping messages. Business decisions related to sourcing, contracting, buying or leasing of land etc. should also be made on an equal basis –

1 Terms employee and worker are used interchangeably in this publication. The principle of equality of opportunity and treatment in employment and occupation covers all persons working for an employer, regardless of their contractual status, all self-employed workers and even all members of ethnic groups pursuing traditional livelihoods.

on the basis of merit and objective value. Companies with a strong commitment to equality, apply this principle to their supply chain management policies and procurement policies, and require their suppliers or subcontractors to also adhere to this principle.

1.1. What is equality and non-discrimination at work?

Equality of opportunity and treatment in employment and occupation means that all persons, regardless their sex,[2] ethnicity, religious belief or any other personal characteristic, can participate in and contribute to the labour market according to their capacity, without interference of discrimination or bias. **Discrimination** refers to **differential treatment of persons, or excluding somebody from an opportunity, or giving preferences to certain persons** on the basis of a person's personal characteristics, which are not related to the job. The legal definition of discrimination at work is included in the ILO *Discrimination (Employment and Occupation) Convention*, 1958 (No.111), which Indonesia ratified in 1999. The Convention prohibits discrimination on the grounds of race, colour, sex, religion, political opinion, national origin and social origin.

At the enterprise level, non-discrimination and equality of opportunity and treatment mean that **all recruitment and employment decisions are made solely with reference to the merit, skills, experience or abilities** of the applicant or worker in question. Adequate attention should also be paid to team diversity and enterprise affirmative action measures. Employers should not treat people differently, exclude anybody from an opportunity or give preference on the basis of the person's **sex, race or ethnicity, colour, religious belief or creed, social origin, social status, economic status, birth, national origin, political opinion, disability, HIV status, membership in a trade union or the exercise of union activities,** or any other personal characteristic not related to the job. The employers should also make sure they do not make any assumptions or generalizations about the abilities and aptitude of a person based on his or her personal characteristics, but assess every person with reference to his or her **individual abilities and aptitudes**. Discriminatory bias, prejudices or stereotyped assumptions should not interfere with recruitment or employment decisions.

The objective of equality promotion is not to nullify all differences in the labour market, but to ensure that differences in labour market outcomes reflect a **free choice** in the selection of occupations. Free choice of persons to choose their area of work in accordance with their personal interest and capacities should not be hampered by discrimination or bias in the labour market.[3]

2 In this publication the words sex and gender are used interchangeably. Gender refers to the social differences and relations between men and women that are learned, vary widely within and between cultures, and change over time. Sex refers to the biological functions and differences between men and women. In recent years the term gender has started to replace the term sex in day-to-day language. Most laws and other legal texts refer to sex discrimination. However, some laws and many policy documents have also started to use the term gender discrimination.

3 ILO: *Time for equality* at work (Jenewa, 2003), para. 83

1.2. Non-discrimination: Key concepts in ILO Convention No.111 and Indonesian law

Definition of discrimination

Law No.21 of 1999 on the Ratification of the ILO Convention No. 111 on *Discrimination (Employment and Occupation) Convention*, 1958 stipulates that ratification of the Convention:

> **"whose original document is in English and whose translation in Indonesian has been made available as appended here, is an inseperable part of this law." (Article 1.)**

Therefore the definitions and application of the ILO C.111 form part of Indonesian law and should be used to guide implementation and practice in all forms of employment in the private, public, formal and informal sectors. ILO C.111 defines discrimination as:

> **"any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation."(Article 1(a))**

In the Manpower Act (Law No.13 of 2003) the general prohibition of discrimination at work is stipulated in Article 5:

> **"Any manpower shall have the same opportunity to get a job without discrimination."**

And Article 6:

> **"Every worker/labourer has the right to receive equal treatment without discrimination from their employer"**

The Human Rights Act (Law No.39 of 1999) further defines discrimination as:

> **"...every restriction, degradation, or exception, direct and indirect, based on differentiation of humans on the grounds of religion, ethnic origin, race, ethnicity, group, faction, social status, economic status, sex, language, political belief, that results in the reduction, contravention, or revocation, of the recognition, execution, or application of human rights and basic freedoms in political, economic, legal, social, cultural, or any other aspects of individual or collective life" (*Human Rights Act*, Article 1(3)).**

Additional grounds upon which discrimination is not permitted in Indonesia include, disability (mental and/or physical)[4], HIV and AIDS[5] and membership or affiliation to trade unions.[6]

4 *Disabled Persons Act*, (Law No.4 of 1997), Articles 5 and 9.

5 Ministry of Manpower and Transmigration Decree, No 68 of 2004 and Ministry of Manpower and Transmigration Decision No.20 of 2005 on HIV/AIDS Prevention and Control in the Workplace.

6 Trade Union Act, (Law No.21 of 2000), Article 28.

Scope of discrimination prohibition

Prohibition of discrimination covers **the whole employment cycle**, from recruitment to separation of a person from the company. Employers should make sure that all their recruitment and employment policies and practices are based on the principle of equal opportunity and treatment, with adequate attention to implementation of affirmative action measures. Employers should also take active measures to ensure that the working environment at the company is inclusive and free from harassment.

The principle of non-discrimination applies to work carried out by **different groups of workers**, including: regular employees, casual workers, workers hired through a temporary work agency, outsourced workers, public servants, agricultural workers, unpaid family workers, owners of enterprises, self-employed workers and workers engaged in traditional occupations. It should be noted that the *Manpower Act* also explicitly states that all workers 'shall have equal rights and opportunities to choose a job, get a job or move to another job and earn decent income…' (Article 31) and that 'Job placement shall be carried out based on transparency, free, objectivity, fairness and equal opportunity without discrimination' (Article 32). Similarly, any outsourced workers shall be granted the same rights and protections as ordinary workers employed by the enterprise (Article 65(4)).

ILO Convention No.111 prohibits discrimination on seven grounds: **race, colour, sex, religion, political opinion, national extraction or social origin**. Alongside the seven grounds covered in the Convention any other grounds of discrimination may be added at national level (Article 1(b)). Indonesian national legislation has prohibited discrimination on these seven grounds as well as the following additional grounds: **group, faction, social status, economic status, disability, HIV status and membership in a trade union or the exercise of union activities**. This brings the total number of prohibited grounds of discrimination to 14 in Indonesia.

Management Tip 1

Prohibited grounds for discrimination

- Sex
- Race or ethnicity
- Colour
- Religious belief or creed
- Social origin
- Social status
- Economic status
- Group
- Faction
- National origin
- Political opinion
- Disability
- HIV status
- Membership in a trade union or the exercise of union activities

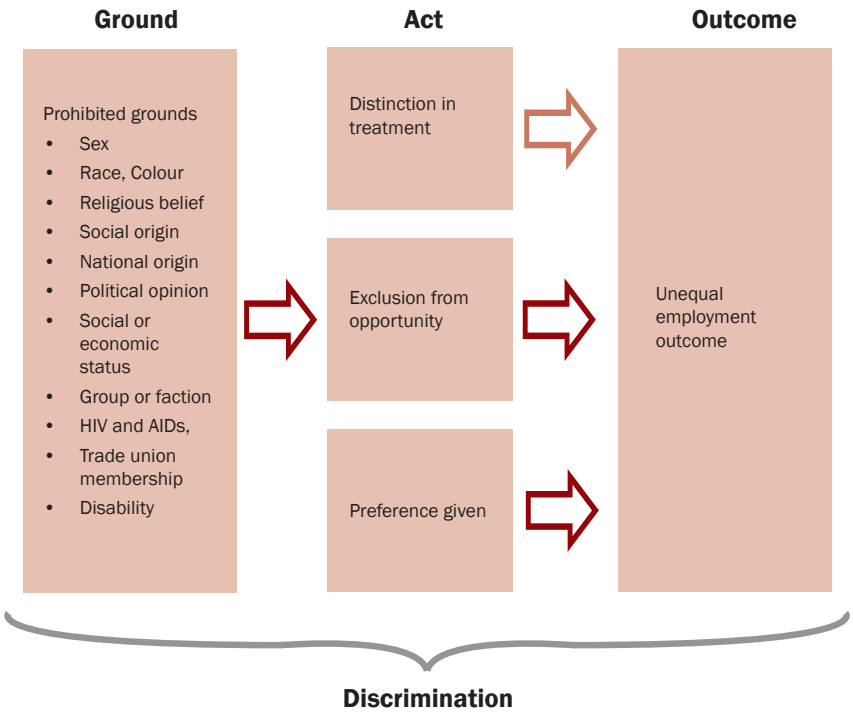
Elements of discrimination

The definition of discrimination in Convention No.111 has three components:

1. An **act** of making a *distinction*, *exclusion* or preference of someone or a group over another/others; and
2. This act was based on a prohibited **ground** (sex, ethnicity, etc.); and
3. The **outcome** of the act has a negative impact on a certain group of workers or an individual.

If all three components can be identified in the action taken by the employer, manager or supervisor, the person who has been negatively impacted has been discriminated. (See figure 1 below.)

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



Distinction in treatment could, for example, involve paying different wages and benefits to regular employees and casual workers, or laying off more women than male employees when retrenchments are needed. Exclusion from an opportunity could mean, for example, refusing to hire a job applicant because of his or her HIV status, or rejecting to promote a competent, dedicated and suitable woman just because she has a child. Examples of discriminatory preferences include promoting only persons from the same ethnic background or religion to supervisory or managerial positions. 🕮 **See also Management tip 6**. *Recognize different forms of discrimination*. Discrimination usually does not occur as a stand-alone event, and those exposed to it often experience various forms of discrimination repeatedly in different spheres of life and work.

Structural (or systemic) discrimination refers to the institutionalization of discrimination in social patterns, organizational structures and legal constructs. For example, differences in pay levels of women and men (gender pay gap) do not emanate from exceptional stand-alone discriminatory payment practices of individual employers, but are systematically found throughout the labour market. Gender pay gaps exist due to persistence of traditional ideas about women and men's gender roles, their contribution to work, and systemic undervaluation of jobs that are considered "women's jobs".

Harassment is also a form of discrimination if it is conducted on the basis of person's sex, ethnicity, disability or other grounds covered in the law and the ILO Convention No.111.

Harassment consists of unwelcome conduct or comments that violate the other person's dignity and/or create an intimidating, hostile, degrading or offensive work environment. 🕮 **See Section 6.1** *Harassment*.

Note - discrimination does not require proof of **intention**. Actions taken **without any intention to discriminate** is also unlawful discrimination, if it leads to unequal employment outcomes for certain workers. Therefore employers need to ensure there is adequate reflection and transparency in decision making processes to ensure discrimination does not occur.

Exceptions: What is not discrimination?

There are a few exceptional situations where difference in treatment, exclusion from opportunity or a preference given is legitimate and does not constitute discrimination. These exceptional situations are:

1. **Inherent Requirement of the Job** – When a personal characteristic such as sex, ethnicity or absence of certain disability is an inherent requirement of the job then an employment decision can be made on that basis. This means that the job in question can only be performed by a person with specific characteristics (ie a men only for male clothes models, or a Christian for the job of a priest). 🕮 **See Management tip 9**. *When can a personal characteristic be an inherent requirement of the job?* for more examples.
2. **Interests of the Security of the State** - Excluding a person from a job may be necessary because employing him or her could endanger or prejudice the security of the State.
3. **Special Measures or Affirmative Action** - Provision of special measures to support certain groups of workers is legitimate when it is to rectify existing imbalances and inequalities in terms of labour market outcomes. An example of this includes affirmative action, such as making a quota for hiring persons with disabilities. Special measures for protection or assistance could be to provide maternity leave for women who give birth, or providing special equipment to persons with disabilities so that they can participate equally at the workplace. These measures respond to specific, objective and well-defined needs of groups of workers.



Management tip 2

Recognize different forms of discrimination

Direct discrimination refers to situations where unequal treatment of job applicants or employees is made explicitly with reference to the grounds covered in law or the Convention. For example, job advertisements that explicitly state the sex of the candidates who can apply are forms of direct discrimination.

Indirect discrimination exists when rules and practices appear neutral, but in practice lead to disadvantages primarily suffered by persons of one sex, ethnicity, or advantages to persons of one certain group. For example, job advertisements that set irrelevant height requirement that only male applicants are likely to meet because they tend to be taller constitute indirect discrimination. Indirect discrimination is more difficult to detect than direct discrimination, and as such more difficult to prevent. It is however as detrimental to workers as direct discrimination. Employers should take active steps to identify and eliminate indirect discrimination in human resource management policies and practices by looking at the effects of policies and practices on all workers.

Discrimination in law *(de jure)* means that a law or regulation treats different groups of workers in different ways. For example, if the law were to prevent women from working at night, this would restrict women's free choice of employment and constitute discrimination in law against women.

Discrimination in practice *(de facto)* refers to factual differences in opportunities and treatment of different groups in the labour market or in company human resource practices. For example, strong gender stereotypes and ideas about what jobs are suitable for women and men may limit the choice and availability of jobs for men and women in Indonesia.

Management tip 3

Equality provisions in national law

General Discrimination Provisions

Article 27, 1945 Constitution

(1) All citizens shall be equal before the law and the government and shall be required to respect the law and the government, with no exceptions.

(2) Every citizen shall have the right to work and to earn a humane livelihood.

(3) Each citizen shall have the right and duty to participate in the effort of defending the state

Article 28D, 1945 Constitution

(1) Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law.

(2) Every person shall have the right to work and to receive fair and proper remuneration and treatment in employment.

(3) Every citizen shall have the right to obtain equal opportunities in government.

(4) Every person shall have the right to citizenship status.

Article 28I, 1945 Constitution

(1) The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances.

(2) Every person shall have the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment.

(3) The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilizations.

(4) The protection, advancement, upholding and fulfillment of human rights are the responsibility

	of the state, especially the government. (5) For the purpose of upholding and protecting human rights in accordance with the principle of a democratic and law-based state, the implementation of human rights shall be guaranteed, regulated and set forth in laws and regulations. **Art 1(3) Law Number 39 of 1999 on Human Rights** Defines discrimination as "every restriction, degradation, or exception, direct and indirect, based on differentiation of humans on the grounds of **religion, ethnic origin, race, ethnicity, group, faction, social status, economic status, sex, language, political belief**, that results in the reduction, contravention, or revocation, of the recognition, execution, or application of human rights and basic freedoms in political, economic, legal, social, cultural, or any other aspects of individual or collective life". **Art 5, Law No.13 of 2003 on Manpower** "Any manpower shall have the same opportunity to get a job without discrimination." **Art 6, Law No. 13 of 2003 on Manpower** "Every worker/labourer has the right to receive equal treatment without discrimination from their employer" **Art 153, Law No.13 of 2003 on Manpower** "The entrepreneur is prohibited from terminating the employment of a worker/ labourer because of the following reasons:... (i) Because of difference of understanding/belief, religion, political orientation, ethnicity, color, race, sex, physical condition or marital status"
Men and Women	**Ministerial Regulation No. PER/03/MEN/1989 on Termination of Employment** Prohibits dismissal of a "married couple" relating to pregnancy or childbirth **Presidential Instruction Number 9/2000 on Gender Mainstreaming in National Development**

Implementation through the Ministry of Women's Empowerment

Article 32, Law No.13 of 2003 on Manpower

"Men and women have the same opportunity to obtain training".

Art 76, Law No.13 of 2003 on Manpower *Note guidance on protection vs equality in Guide

(1) "It is prohibited to employ female workers/labourers aged less than 19 years of age between 11pm until 7am"

(2) "Entrepreneurs are prohibited from employing pregnant female workers/labourers who, according to a doctor's certificate, are at risk of damaging their health or harming their own safety and the safety of the baby that are in their wombs if they work between 11pm until 7am"

(3) "Entrepreneurs who employ female workers/labourers to work between 11pm and 7am are under an obligation:

   a) to provide then with nutritious food and drinks; and

   b) to maintain decency/morality and security in the workplace"

(4) "Entrepreneurs are under an obligation to provide returned/roundtrip transport for female workers/labourers who work between 11pm until 5 am."

Art 82(1), Law No.13 of 2003 on Manpower

"Female workers/labourers are entitled to a 1.5 month period of rest before the time at which they are estimated by an obstetrician or a midwife to give birth to a baby and another 1.5 month period of rest thereafter."

Art 83, Law No.13 of 2003 on Manpower

"Entrepreneurs are under an obligation to provide proper opportunities to female workers/labourers whose babies still need breastfeeding to breast-feed their babies if that must be performed during working hours."

	See also **Equal Employment Opportunity Guidelines** – Issued by the Ministry of Manpower and Transmigration in 2005 and **Guidelines on Sexual Harassment at the Workplace** – Issued by Ministry of Manpower and Transmigration Circular No. SE.03/MEN/IV/2011
Ethnicity / Race	**Art 9, Law No. 40 of 2008 on the Elimination of Racial and Ethnic Discrimination** "Every citizen has the right to obtain equal treatment for civil rights, political, economic, social, and cultural rights in accordance with the provisions of the legislation, without distinction of race and ethnicity" **Art 5 Law No. 40 of 2008 on the Elimination of Racial and Ethnic Discrimination** "Elimination of racial and ethnic discrimination must be done by providing: (a) protection, certainty, and equality before the law to all citizens to live free from racial and ethnic discrimination; (b) guarantee the absence of barriers to the initiative of individuals, groups, or institutions in need of protection and guarantee equality of use rights as citizens, and (c) understanding of the public about the importance of pluralism and respect for human rights through national education".
Religion	**Art 28E, 1945 Constitution** (1) "Every person shall be free to choose and to practice the religion of his/her choice..." (2) "Every person shall have the right to the freedom to believe his/her faith, and to express his/her views and thoughts, in accordance with his/her conscience" **Article 80, Law No.13 of 2003 on Manpower** Entrepreneurs are under an obligation to provide workers with adequate opportunity to perform their religious obligations

Disabilitas	**Arts 5 & 9 Law No. 4 of 1997 on Disabled Persons** Every disabled person has equal rights and opportunities in all aspects of life **Art 6 Law No. 4 of 1997 on Disabled Persons** "Every disabled person has the right to obtain: (1) Education in all units, programmes, types and levels of education; (2) Employment and to standard of lifing befitting for human beings...." **Art 13 Law No. 4 of 1997 on Disabled Persons** "Every disabled person shall have equal opportunities to obtain employment according to their disabilities" **Art 14 Law No. 4 of 1997 on Disabled Persons** State and private companies shall give equal treatment and opportunities to the disabled by employment of them at the companies according to their disabilities education and abilities...." **Arts 26-31 Government Regulation No. 43/1998 on the Promotion of Welfare of Persons with Disabilities.** Covers types of disabilities, accessibility, vocational training, placement and coordinating board in promoting the welfare of persons with disabilities. The regulation provides that companies must follow a quota system by employing 1 person with disability for every 100 employees. **Art 4 MoMT Decree No. 205 of 1999 on Vocational Training and Job Placement for Persons with Disabilities.** Sets quota for employers to employ one person with a disability who fulfils the requirements and qualifications of the job per every 100 employees **Art 8 MoMT Decree No. 205 of 1999 on Vocational Training and Job Placement for Persons with Disabilities.** Provides for vocational rehabilitation by employers

	Art 67, Law No.13 of 2003 on Manpower. "Entrepreneurs who employ disabled workers are under an obligation to provide protection to the workers in accordance with the type and severity of their disability."
HIV/AIDS	**MoMT Decree, No 68 of 2004 & MoMT Decision No 20 of 2005 on HIV/AIDS Prevention and Control in the Workplace** Drawing on the ILO Code of Practice on HIV/AIDS and the World of Work and existing government regulations, the MoMT Decree requires employers to implement workplace prevention programs. It states that "workers with HIV/AIDS have the right to occupational health service and employment opportunities equal to that which other workers/labourers are entitled to". It also provides that "employers or officials are prohibited to perform an HIV tests as part of recruitment requirements or working status of workers/labourers or as a compulsory regular medical check up"
Trade Unions	**Art 28, Law No. 21 0f 2000 on Trade Unions** "Everybody is prohibited from preventing or forcing a worker/ laborer from forming or not forming a trade union/ labor union, becoming union official or not becoming union official, becoming union member or not becoming union member and or carrying out or not carrying out trade/labor union activities by: (a) Terminating his employment, temporarily suspending his employment, demoting him, or transferring him to another post, another division or another place in order to discourage or prevent him from carrying out union activities or make such activities virtually impossible; (b) Not paying or reducing the amount of the worker/ laborer's wage; (c) Intimidating him or subjecting him to any other forms of intimidation; (d) Campaigning against the establishment of trade unions/ labor unions."

Outsourced workers	**Art 65(4), Law No.13 of 2003 on Manpower.** "The protection and working conditions provided to workers/ labourers at the other enterprise as mentioned under subsection (2)[subcontracted workers] shall at least the same as the protection and working conditions provided at the enterprise that commissions the contract or in accordance with the prevailing laws and regulations."

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