

# GUIDELINES

## EQUAL EMPLOYMENT OPPORTUNITY IN INDONESIA





Ministry of Manpower and Transmigration  
Republic of Indonesia

**Task Force  
Equal Employment Opportunity**

# GUIDELINES

## **EQUAL EMPLOYMENT OPPORTUNITY IN INDONESIA**

***(EQUAL EMPLOYMENT OPPORTUNITY – EEO)***

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## FOREWORD

The Indonesian Government's commitment to prevent and to eliminate discrimination in the world of work is reflected in Law No. 80 of the Year 1957 upon its ratification of the Equal Remuneration Convention, 1951 (No. 100), and in Law No. 21 of the Year 1999 upon its ratification of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The ratification of the Conventions obliges the Indonesian Government to implement all provisions stipulated in the Conventions, in law, through the enactment of national legislation, as well as in practice, through the strengthening of law enforcement efforts against any violation of the law.

In order to accomplish these tasks, the Indonesian Government has enacted Law No. 13 of the Year 2003 on Manpower with specific provisions on equal opportunity in Articles 5 and 6. The provisions are the basis of the national strategy for equal rights and the elimination of discrimination in the workplace. However, the implementation of the Articles needs to be supported by a Guideline, to assist in the proper implementation of the provisions.

The Ministry of Manpower and Transmigration RI, through the Equal Employment Opportunity (EEO) Task Force, has taken a strategic step to draft the **Guideline on Equal Employment Opportunity in Indonesia**. It is expected that the Guideline will assist both employers and workers to respond effectively to discriminatory practices in the workplace.

I warmly welcome the International Labour Organisation's (ILO) efforts to support the MoMT EEO Task Force in drafting the Guideline. It is appropriate, and the practice equal opportunity in the workplace can contribute to Indonesian employers and workers having a decent and prosperous life. It is my hope that the Guideline will be beneficial in carrying out our collective duty to prevent in eliminating discrimination in the world of work.

Jakarta, 11 October 2005

A handwritten signature in black ink, appearing to read 'Fahmi Idris', with a long, sweeping horizontal line extending to the right.

**Fahmi Idris**

Minister of Manpower  
and Transmigration of  
the Republic of Indonesia



International  
Labour  
Organization

## FOREWORD

The International Labour Organisation (ILO) has the commitment to promote equality at the work place, including equality between men and women. This is a part of the ILO's core mandate, and is specifically reiterated through two international ILO instruments considered fundamental to the enjoyment of labour rights: the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

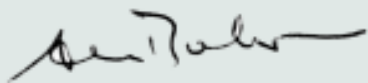
A workplace that espouses principles of equal employment opportunity (EEO) ensures that the workplace is free from all forms of unlawful discrimination and harassment, and there are programmes provided in the workplace to assist identified groups of workers to overcome past or present disadvantage. This means having workplace rules, policies, practices and behaviours that are fair and do not disadvantage people because they belong to particular groups. In such an environment, all workers are valued and respected and have opportunities to develop their full potential and pursue a career path of their choice.

Indonesia's commitment to the principles of EEO was realised through the ratification of the two ILO Conventions on Discrimination in the Workplace, and the enactment of the Manpower Act (Law No. 13 of 2004). This Guideline for Equal Employment Opportunity, drafted in tripartite consultation, furthers that commitment through the articulation of the non-discrimination principle. It can be used to strengthen the Ministry for Manpower's workplace monitoring role. It can also be used to enhance bipartite workplace relationships between

employers and workers, through the development of workplace EEO policies and complaints procedures.

Most significantly, the Guideline is an important step for Indonesia in addressing non-discrimination in the workplace by advocating equality of opportunity, and treatment, in the workplace for all workers in Indonesia.

Jakarta, 11 October 2005

A handwritten signature in black ink, appearing to read 'Alan Boulton', with a long horizontal flourish extending to the right.

**Alan Boulton**

Director, ILO Jakarta



## PREFACE

The Guideline is a reference made by the Task Force on Equal Employment Opportunity (EEO), Ministry of Manpower and Transmigration, Republic of Indonesia.

The Guideline, agreed to by the labour/Trade unions and APINDO, aims to provide directions to firms on how to implement the equal employment opportunity provisions of the Manpower Act (Law No. 13 of 2004) in Indonesia, especially in regards to the elimination of discrimination on the grounds/basis of one's sex.

The programmes that will be developed based on the Guideline are expected to contribute to the elimination of the forms of discrimination prohibited in law and in theratified and non-raitifed ILO Conventions, specifically those related to the prohibition of sex discrimination.

The Ministry of Manpower and Transmigration of the Republic of Indonesia has developed a National Strategy on Equal Rights and Treatment as mandated by the Manpower Act (Law No 13 of 2004). The decision was made to focus the EEO Programme on the elimination of sex discrimination in the workplace, implemented by the Ministry of Manpower and Transmigration in collaboration with the ILO, and supported by the social partners (Labour/Trade Unions and APINDO).

It is expected that the Guideline would enable firms to become a pleasant and safe workplace for both employers' and workers', contributing to a harmonious business and work environment, harmonious industrial relations, and also contributing to the improvement of worker's welfare, so decent work can be achieved.

Jakarta, 11 October 2005

**Task Force EEO**



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# EEO GUIDELINES



## CHAPTER 1

### Introduction



# CHAPTER I

## INTRODUCTION

The document was drafted by the Ministry of Manpower and Transmigration Task Force on Equal Employment Opportunity. The social partners (Apindo and Labour/Trade Unions) were also consulted and involved in its completion. The document contains the implementation guidelines for “EEO” in Indonesia, as mandated in the Labour Law No. 13 Year 2003 article 5 and 6.

The objective of the Guideline is to provide direction to firms when implementing EEO practices in workplaces in Indonesia. An EEO Programme is very important to promote equality and to reduce discrimination at work on the basis of race, colour, sex, religion/belief, political affiliation and social status. The Guideline especially aims to promote equality and to eliminate sex discrimination in the workplace. The meaning of “gender” in the Guideline refers to socially determined roles. “Sex” is defined from a biological perspective.

The gender gap in the work place, both in formal and informal sectors, can be seen from the labour market indicators. The National Labour Force Survey - *Survei Angkatan Kerja Nasional (SAKERNAS)* 2004 recorded that the number of women in the working age above 15 years old is 50.2% out of a working age population of 153,923,648. However, the level of participation in the labour force (*tingkat partisipasi angkatan kerja – TPAK*) for women is only 49.2% while men’s TPAK reached up to 86.0%. The gap is also reflected in the percentage of work hours. There are 74.9% male workers/labours working full time, while the number of female workers/labours who work full time is only 54.6%.

The opportunity gap between women and men in any field of employment has been happening for centuries in Indonesia, but the state ideology of the Republic of Indonesia (Pancasila) does not

acknowledge this gap, although the 1945 Constitution and its amendments **stipulates the equal rights for men and women**. Article 27 stipulates that: **“All Citizens are equal before the Law and Governance and are obliged to uphold the Law and Governance with no exception.” (Art. 27, para.1). “Every citizen has the rights to work and to have a decent life for humanity.” (Art. 27, para. 2)**

The right to work is stipulated in Article 28D, paragraph 2, which stated that everyone has the right to work and to get fair and decent compensation and treatment in labour relations.

Articles 5 and 6 of the Manpower Act (Law No. 13 of 2004), which is the basis for the National Strategy for Equal Employment Opportunity, mandates the following:

**“Every worker has equal opportunity without any discrimination to get an employment” (Article 5).**

**“Every worker/labour has the right of equal treatment without any discrimination from the employers” (Article 6).**

The Indonesian Government has ratified two fundamental ILO Conventions – the ILO Convention No. 100 on *Equal Remuneration for Equal Work*, 1951 which was implemented through the enactment Law No. 80 Year 1957; and ILO Convention No. 111 on *Discrimination in Respect of Employment and Occupation*, 1958, which was implemented through the enactment of Law No. 21 Year 1999.

Both Conventions are the main reference for the implementation of the EEO Strategy in Indonesia. As an ILO member state, Indonesia has the duty to uphold the principles stipulated in the two Conventions. Both Conventions were also considered in the drafting of the Manpower Act (Law NO. 13 of 2004).



**ILO Convention No. 100 reflects the equal wage principle, for men and women labours, for work of equal value, with the following intentions:**

- a. To provide clarity on the issue of equal wage for men and women labours for work of equal value of work, which refers to the value of wage, regardless of sex. The same goes for the issue of wages in relation to regular, principal or minimum wages or salary and additional incomes that employers must pay to the labourer in regards to the labourer's work, both directly and indirectly paid in cash or in kind (Article 1).
- b. The government has the duty to set the wage and promote and ensure the implementation of an equal wage principle, for men and women labourers, for work of equal value, for all labourers. The principle could be implemented through national laws or by a wage-setting body that prevails, or by labour agreement (Article 2).
- c. In valuing the wage, it has to be based on an objective assessment of work, which can be done by the entrepreneur responsible for setting the wage value, or if the wage value is set by a labour agreement, by relevant employer and workers' parties. Different wage values between labourers, regardless of sex but based on an objective assessment of the work to be completed, will not be considered as a violation of the principle of equal wages for men and women labourers for work of equal value (Article 3).
- d. The government has to cooperate with the relevant social partners to implement the provisions of the Convention (Article 4).

**ILO Convention No. 111 reflects the basic principle of equal employment opportunity, with the following objectives:**

To promote equal employment opportunity, and to eliminate all forms of direct and indirect discrimination, in regards to employment and occupation, on the basis of race, colour, sex, religion, political affiliation, ethnicity, and social status. The promotion of equal employment opportunity, as well as the prohibition of all forms of discrimination, also covers the

opportunities to join skills training, to get a job and to obey the work requirements, and the work conditions that applies (Article 1);

b. The government has the duty to develop a national policy and promote equal employment opportunities, and to eliminate discrimination in that respect (Article 2);

c. The national policy includes the following:

- ◆ To revoke, enact, and amend all forms of legislation and change administrative mechanisms that are not in accordance with the policy;
- ◆ To encourage the implementation of the policy with regards to employment opportunities in the public and private sectors;
- ◆ To ensure compliance with the policy in with regards to occupational guidance, skills training, and placement of workers, with the direction from the authority;
- ◆ To ensure the implementation of the legislation, and encourage relevant education and training programmes;
- ◆ To cooperate with the employers organisation, workers' organisations and other relevant institutions in promoting and implementing the policy (Article 3).

d. The government, subsequent to consultation with social partners, should take certain measures to protect and provide assistance to persons who, because of their sex, age, disability, family responsibility and social status, are known to require certain protection or support according to the prevailing general provision (Article 5). The programme would help protect these groups from discrimination.

Moreover, **ILO Recommendation No. 111** provides a more detailed and technical guidance in addition to the ILO Convention No. 111. The Recommendation **contains the technical explanations of the implementation of ILO Convention No. 111, including other issues that should be considered**, to ensure that the legislation enacted to prevent discrimination in employment and occupation covers the following principles:

- a. Access to career counselling and workers' placement services;
- b. Access to recruitment and job-seeker selection processes;
- c. Increasing the experience, ability, and skills of each worker according to their potential;
- d. Access to drafting the arrangement of work requirements, in the form of Employment Contracts, Company Regulations, or Collective Employment Contracts.
- e. Equal wage for work of equal value;
- f. Working conditions, including working hours, time to rest, paid annual leave, occupational safety and health insurance, social insurance, and welfare facilities provided in relation to the work;
- g. Permitting or supporting worker membership or participation in the affairs of employers and/or workers' organisations.

Therefore, **the obligation to implement an equal employment opportunity strategy is a duty for the government, employers, workers, and the public in general.** It has to become a national commitment that is expressed in non-discriminatory employment policies, procedures and practices.

Equal employment opportunity is a part of the Indonesian government's commitment to promote and protect human rights. It is the right of every individual in the community to participate in the use of their human potential. The right to a decent life can only be achieved if non-discriminatory equal opportunities, and treatment, are upheld and valued in the world of work.

Human rights should be upheld with respect for the values, traditions, culture, and diversity that exists in Indonesian society. The implementation of human rights should also be exercised with a proper approach, taking into consideration the political and socio-economic conditions that Indonesia is currently facing.

**The Indonesian Government is placing equal employment opportunity as a high priority in its agenda.** The Ministry of Manpower and Transmigration has the main responsibility for monitoring the implementation of related activities. The implementation should embrace the participation of all communities, including labour/trade unions, employers associations or organisations,

the National Commission of Human Rights (*Komisi Nasional Hak Azasi Manusia – KOMNAS HAM*), human rights observers, academic, womens' groups, and other non-governmental organisations.

**The process for achieving equal employment opportunity will be carried out in stages - the pre-employment, employment and post-employment stages.**

# EEO GUIDELINES



## CHAPTER 2

**What is  
"Equal Employment  
Opportunity"?**



# CHAPTER II

## WHAT IS “EQUAL EMPLOYMENT OPPORTUNITY” (EEO)?

Equal Employment Opportunity (EEO) includes all policies, and its implementation, which aims to eliminate discrimination in the world of work.

The ILO Convention No. 111 covers all forms of discrimination. Discrimination in the world of work might occur directly or indirectly. **Direct discrimination happens when someone is treated unfairly, due to a variety of reasons/grounds, and suffers a disadvantage because of such unfair treatment/bias.**

Examples of direct discrimination are:

- a. the refusal to interview someone to fill in a job opening only because she is a woman;
- b. deciding that someone is not a “candidate for senior manager” because he/she came from a certain ethnic group.

Therefore, discrimination at work can be seen in a variety of situations. For example, when someone is:

- a. Refused certain employment;
- b. Fired/Demoted from a job;
- c. Denied an opportunity to join a training;
- d. Refused by the reason that the work condition is not well enough;
- e. Denied access to employment because their political beliefs or party affiliation.

**Indirect discrimination occurs both in law and in practice but it is not as noticeable as direct discrimination unless the situation is analysed.**

### Example 1:

There is an advertisement about a job opening that states a minimum height requirement of 170 cm. Height does not affect a worker's ability to complete the work. However, most Indonesian women cannot fulfill the minimum height requirement. Thus, the opportunity to secure the job is higher for Indonesian men than it is for Indonesian women, making the job advertisement indirectly discriminatory against women.

### Example 2:

All entrepreneurs only provide allowances for the heads of families. As men are always considered as the heads of the family in Indonesia, and not women, the practice is an indirect discrimination against women who, in some cases, are often the main/sole breadwinner in the family.

Therefore **EEO is about:**

- a. **According fair treatment.** EEO is an instrument for every labour/worker and job-seeker;
- b. **Implementing merit-based systems of employment and promotion.** EEO places value on an individual's academic merit and/or work performance, leaving employers with human resources suited to the job requirements;
- c. **Improving workplace efficiency.** EEO contributes to workplace efficiency and productivity, workplace outputs that are crucial in an ever-increasing competitive world;
- d. **Including active and potential workers/labours in decision-making.** EEO is about giving people equal treatment in the workplace, and this contributes indirectly to the success of a company's planning to achieve quality management;
- e. **Enhancing career advancement.** EEO is about giving people the opportunity to reach the top of their careers in any work place;
- f. **All aspects of the world of work.** EEO can be implemented from the recruitment of workers, and provision of wages and compensation, right through to career development and working conditions.



**It is not discrimination** if someone is refused a job or promotion because they do not have the skill or qualification required for the work.

So **EEO is not about:**

- a. **Quotas.** EEO is not about the fulfillment of a certain number or percentage by firms. "Equality" in this respect does not mean "equal number of men and women." Although there is a quota enforcement, for example to participate in training programmes, or recruitment quotas, or representation quotas from an organisation, normative and administrative requirements (through a healthy competition) still applies, and a targeted quota should not be forced upon.
- b. **Pity.** EEO is not about placing women at work because we pity them and expecting that it would benefit men.
- c. **Avoiding the accusation of discrimination.** EEO will not replace one of the forms of injustice before the law, because it is based on merit and it is the implementation of personnel (human resource) function at the work place that is applicable for all workers.
- d. **Not the only thing that is considered too good to be true,** such as the benefit expected by the workers/labours and management by the existence of good management system.
- e. **Kindness.** EEO is not meant as a demand, charity, or kindness for women.

EEO does not only protect workers/labours rights but it is also beneficial for employers, by contributing to a more harmonious work environment. It also reduces the possibility of charges directed at employers.

**EEO is an important factor to achieve the firm's goal of sustainability.** The elimination of discrimination in the work place helps to increase productivity through the increasing skills of all workers/labourers, regardless of their being a man or a woman.

**EEO is an important instrument to fight poverty because** it provides the alternatives for people who have been treated unfairly

in the workplace, and/or denied employment. Therefore, EEO supports and brings benefit to the achievement of the firm's goals.

# EEO GUIDELINES



## CHAPTER 3

### **Benefits of Equal Employment Opportunity Programme Implementation for Firms**



# CHAPTER III

## BENEFITS OF EQUAL EMPLOYMENT OPPORTUNITY PROGRAMME IMPLEMENTATION FOR FIRMS

EEO programme implementation does not only bring benefits for workers/labours in general, but it also brings benefits for firms in the form of:

- a. **Positive feedback** for firms because they have fairly invested in all workers/labours;
- b. **Decreasing the absence rate** because there is an equal opportunity for all workers/labours in the workplace to become 'someone important', through fair competition;
- c. **Available alternatives for better selection of workers.** EEO will provide wider opportunity for men or women job seekers to apply for job opportunities, so that recruitment and selection teams at the firms have a more diverse pool of applicants to select from;
- d. **Increasing workers' productivity.** By implementing EEO at firms, it is expected that the levels of labour turnover, absence rate, and errors in production and administration would be decreased;
- e. **Increasing loyalty, moral, and job satisfaction of workers/labours.** EEO would link the company's policy with the existence of workers/labours and family responsibilities. Therefore, EEO would have a positive impact on workers/labours behaviour, including an increase in workers motivation and commitment;
- f. **Increasing customers' satisfaction and sales volume.** EEO implementation would strengthen the working spirit and increase customer satisfaction and thus, increase sales volume;

- g. Wider access to the service and product markets.** By increasing customer satisfaction, market access would be opened wider, and the firms would be ready to compete in both the domestic and international markets;
- h. Increasing public relations.** By implementing EEO, the firms will be better known for treating the workers/labours properly and fairly;
- i. The risk of complaint in regards to discrimination practises at the firms would be reduced and diminished;**
- j. The creation of harmonious, dynamic and fair work relations** by the regulation of rights and obligations, as well as equal treatment in the work place, which is regulated in the Employment Contract (Perjanjian Kerja – PK), Company Regulation (Peraturan Perusahaan – PP), or Collective Employment contract (Perjanjian Kerja Bersama – PKB).

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## CHAPTER 4

**Key Success of Equal  
Employment Opportunity  
Programme Implementation  
at the Firms**





# CHAPTER IV

## KEY SUCCESS OF EQUAL EMPLOYMENT OPPORTUNITY IMPLEMENTATION AT THE FIRMS

There is no special recipe to ensure the success of the implementation of the EEO programme in firms. However, elements from some references could be developed as guidelines and success indicators for the implementation of the EEO programme in firms.

### 1. Building the Firms' Commitment

The main element for the successful implementation of an EEO programme within firms is a strong commitment at all organisational levels, starting from the leadership, right down to the managers, supervisors, and technical units. Commitment building within firms can be done in the following stages:

- a. Having a statement of support, from the highest leadership at the firm, for all policies and programmes within the EEO framework;
- b. The identification of the responsibilities of management, supervisors and workers;
- c. EEO socialisation to all workers/labour in regards to the meaning and importance of EEO and its implementation in the workplace;
- d. Appointing a senior employee as the person in charge of EEO programme implementation at the firm (a senior employee from the Human Resource Department is suggested);
- e. To form an, or to use the, existing working group, at every work unit. in firms, as a way to discuss and to raise the awareness of management and workers/labours on the EEO programme (marketing, production, maintenance, personnel

unit, etc), and to form a consultative, and complaints, unit for addressing problems related to the implementation of the EEO programme.

## **2. Establishing an EEO Policy**

As a follow up from commitment building, the EEO policy needs to be developed through the following measures:

- a. The firm's internal policy formulation on its EEO programme should be fully supported by all management levels at the firm, and as for long as it is beneficial for both parties. For example, EEO principles could be integrated in Employment Contracts, Company Regulations, and Collective Employment Contracts;
- b. The firm's policy on EEO should be widely publicised, among others, through announcement boards, brochures, incorporated into speeches and/or orientation/induction materials for new recruits;
- c. Drafting an action plan.

## **3. Conducting continuous training and consultation for the smooth implementation of the EEO Programme**

The implementation of the EEO programme would run smoothly if it is communicated to relevant parties from the very beginning. Communication is a medium of vertical and horizontal consultation that would make every worker in the company a part of the firm's programme, starting from the planning stage, right through to the implementation, and monitoring processes.

The involvement of all parties would eventually change the mindset that the implementation of equal employment opportunity is not merely a programme from the leadership. It means that all workers/labours need to get equal knowledge of the programme implementation.

With whom should the equal employment opportunity program implementation be consulted? **The following can be involved in consultation:**

- a. All men and women workers/labours at the firms;
- b. Certain groups or organisations at the firm, such as LKS (Cooperation Body), Bipartite, or outside the firm's environment;
- c. Labour/trade unions, workers/labours' representation, and workers/labours' association;
- d. Work partners;
- e. Employers' association;
- f. Other organisations or institutions that had been implementing EEO programme at the work place;
- g. Consultants in the fields of gender and the world of work, or other fields that are relevant to discrimination;
- h. Ministry of Manpower and Transmigration in Jakarta and other institutions that are responsible for manpower issues at the regions;
- i. ILO Jakarta Office.

Consultation with external parties should be made after internal consultation at the firm cannot find a solution.

### **How to make a consultation?**

- a. By providing communication facilities so that workers could build a network within as well as outside the firm;
- b. To encourage existing workers' groups to hold routine meetings;
- c. To ask inputs, for example from women, men workers/labours and (perhaps) the youth, in regards to the network that has been, is being, or will be built;
- d. To conduct a research to find out workers' opinions on certain issue;
- e. Firm's statement of concern (firm's policy) on EEO programme can be expressed at every opportunity. The statement of concern, for example, can be attached to the pay check, to be given to the workers. These efforts are made so that all workers understand the company's EEO programme.

Training can be held to support the programme. **Training materials could cover:**

- a. The explanation on what is EEO, and how the programme would bring benefit to the company as a whole;
- b. The provision of full support for the training activity;
- c. The provision of separate sex-based data and information on EEO implementation from various sources;
- d. The provision of awareness to erase the existing myths in society in regards to gender stereotyping and gender roles (for example: to prioritise men, making life meaningless without any son, etc.).

If possible, training on EEO programme implementation can be held through, for example, a training on how to avoid discrimination in recruitment, or in the placement of workers.

#### **4. Building a Network**

The implementation of equal employment opportunity would run properly if a network with other companies or institutions is built. The network aims to:

- a. Learn from the experiences of other companies that have been successful in implementing EEO;
- b. Collect information on EEO implementation and the solution to any cases where EEO violations have occurred;
- c. Have a consultation with relevant parties (among others, the Ministry of Manpower and Transmigration, ILO, or other professional organisations);
- d. Cooperate with other companies that implement EEO to gain support from other parties.

#### **5. Monitoring and Evaluation**

To monitor the implementation of EEO in the company, as a source of improvement and development of EEO, **the monitoring and evaluation process can be carried out in the following stages:**

- a. Information and data collection on sex, age, disability, position, wage, promotion, training, attendance rate, termination of employment – putus hubungan kerja (PHK), and other characteristics of workers/labours;
- b. The establishment of equal employment opportunity data base;
- c. Analysis and report of information to indicate the progress that has been made and challenges that will be faced in achieving equality in EEO;
- d. The monitoring process should be conducted for 3 months, with annual evaluation. The monitoring and evaluation reports should be acknowledged by the Labour/Trade Unions at the firm that already has a union, or Worker/Trade Unions' Representative for firms that have not had any union;
- e. Routine reports on the implementation of EEO policy and program.

Monitoring and Evaluation activities should be carried out in stages by the firm, Labour/Trade Unions and the Government.

## **6. Assimilating EEO as a work culture at the firms**

The development of this work culture is to be conducted by providing direct examples of EEO implementation, starting from the firm's leadership to the workers/labours levels. It needs to be understood and made aware that the EEO programme would contribute to the firm's improvement and progress. However, the EEO programme is not an intervention programme.

The programme should be inherent for the firms, with the initiative coming from, and for, the firms. The benefits of programme can be felt by workers/labours and employers. The success of this programme would also determine the firms' success in maintaining business continuity and work continuity at the firms. The success of this programme is one of the efforts to achieve harmonious industrial relations.



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## CHAPTER 5

**Recruitment, Selection,  
and Placement**





# CHAPTER V

## RECRUITMENT, SELECTION AND PLACEMENT

Employers and officers who have the authority to execute recruitment, selection and placement processes need to have an understanding of the principles of workers' placement, which are:

- a. **Open.** Information should be clearly provided for job seekers about, among others, the type of work, the wages, and working hours. It is necessary to protect workers/labours and to avoid post-placement conflict;
- b. **Free.** Job seekers are free to choose the type of work, and the employers are free to select the workers. It is inappropriate to force a job seeker to accept an employment and employers should not be forced to accept the human resource offered;
- c. **Objective.** Employers should offer the appropriate job to job seekers according to their abilities, the work requirements, and they have to consider public interest and they should not be biased towards a certain party;
- d. **Fair and equal.** Placement should be based on the workers' merit, and not their sex.

Things that need to be considered in recruitment, selection and placement of workers processes for equal employment opportunity are:

- a. **Job description** is required so it is widely available;
- b. **Advertisement format** to recruit the desired candidates of workers, so that it will not distinguish men against women;
- c. **Testing the methods used** in order to get the appropriate candidates of workers;

- d. Testing the selection of workers process** to ensure that the qualification obtained is according to the work requirement, including the set occupational requirements;
- e. Interview** for candidates of workers;
- f. Testing all aspects**, for example, the preparation of facilities and required selection test tools;
- g. Assessing all processes of recruitment**, selection, and placement of workers.

In carrying out the recruitment process, all applicants should be given the widest opportunity and be treated equally. Thus, the firm could increase the diversity in the work place and it can be free to choose the best candidates of workers to fill in the existing job opening.

Selection is to be conducted by implementing EEO principles, open and fulfilling the criteria of work requirements. Individuals with inappropriate expertise to the work requirement should not be assisted to pass the selection. It is unfortunate if someone that is assumed to be able to complete the work failed the test just because the individual gained their skills through work experience and not from the training institution.

If the user or employer is using a third party's service (consultant) in recruitment and selection processes, the employer should also make sure that the third party understands EEO. Meanwhile, the order of placement of workers process is as follows:

## **1. Recruitment**

Measures to be taken during the recruitment process are as follows:

### **a. Announcement**

If a desired candidate that matches the set criteria/requirements is not available/not registered at the employment office in the province/regency/city, then

companies could announce the job opening through the mass media, both electronic and printed media. The announcement of job openings in the mass media should explain the expertise required for certain work, regardless of sex.

### **b. Registration of Job Seekers**

In registering job seekers, employers should provide equal service, opportunity and treatment to men and women, for all types of work.

## **2. Selection**

When conducting a selection, the following should be considered:

### **a. Interview**

The team that conducts the interview should be “heterogeneous”. For an interview for women candidates, for example, there should be a woman member in the interviewing team that is set by the firm (or consultant).

Ensure that employers are assigning someone who is capable to assess the job seekers’ skill and experience levels, as well as their suitability for the working requirements. The assessment should be made without any prejudice to the candidates.

Furthermore, the interview with job seekers that have applied for the job opening should be conducted in order to find information in regards to their interest, talent, and ability.

During the interview, job seekers should be given the perception that men and women have equal rights to get the job, whatever is the type of work, if they have the required expertise. Moreover, interviewers should ensure that there is no discrimination, for example, in giving higher marks for men or women regardless of their competence, thus affecting the next processes.

### **b. Objective Test**

In the selection process, the employer should design the test objectively, to measure the skills of job seekers in carrying

out the work. The examples of an objective test are: typing and archive management skills test for secretaries, driving test for drivers, and so on. The objective test would ensure that employers find a candidate of worker/labour according to the desired criteria, not 'stereotyping', which means that men or women can freely choose the type of work they are interested in and able to work according to the skills they have.

### **c. Matching**

The next step to finding out a candidates' talents, interests and abilities is matching. The activity aims to see if the available opening has matched the candidates' qualification. Matching is an early effort of placement in the appropriate job. Proper placement could also encourage someone to work productively so that the company could get a big benefit for the use of human resources.

## **3. Placement**

In placing human resources, the following should be considered:

### **a. Equal Rights**

Equal rights means equal rights to get various facilities, among others, the remuneration that should be accepted by the workers.

### **b. Equal Opportunity**

It is the opportunity of equal access to various types of work according to one's qualification. Workers should be placed and promoted on the basis of their ability, regardless of their sex or other forms of discrimination.

### **c. Openness**

The placement policy should be made on the basis of clarity of the existing rules and it has to refer to EEO. The firm should be able to explain to the workers the reasons why they are placed on a type of work for the moment. The explanation should be followed by an elaboration of the required criteria

that match the qualification procured by the workers. Regulations that prevail in the firm should also be explained.

**d. Ability**

The placement of a worker on a certain occupation should also be matched to his/her ability, regardless of his/her sex.



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# CHAPTER 6

## On Employment Relations





# CHAPTER VI

## ON EMPLOYMENT RELATIONS

The employment relation is a relationship between the employer and worker/labour based on the working contract, which contains the elements of employment, wage, and order (Chapter I, article 1, the Law No. 13 year 2003). All workers/labours have the right of equal treatment in the work place. The employment relation should consider basic principles and rights at work.

Thus, it is important to note that the working condition and environment should be able to support the effort to ensure the above mentioned rights, by considering the aspects in employment relations such as, among others:

### 1. Remuneration

The Law No. 80 Year 1957 on the Ratification of ILO Convention No. 100 on *Equal Remuneration for Men and Women for Works of Equal Value* mandated the **prohibition of wage discrimination between men and women workers for work of equal value**.

The work of equal value can be seen from several factors, for example responsibility, difficulty level, occupational risk, and its stake on the company. If all four factors have similar weight, then it can be said that the work is of equal value. Thus, employers should **give equal remuneration for men and women workers who are in charge of the work that are of equal value**.

On the other hand, if the weight of one of the four factors is different, then the work has different values. Therefore, it is not discrimination if the employer is giving different remuneration. In

some cases, the four factors may have equal weight, but several things are different, for example the seniority level and location. In this case, it is not discrimination if the remuneration given is different.

**Minimum Wage Policy is one of the tools to prevent wage discrimination for women and men workers** who have just started working, having the lowest occupational value. The minimum wage is the lowest wage level that can be paid by an employer to men and women workers with the working period of less than 1 (one) year for a *certain field or sector*.

**Other tools to ensure equal remuneration opportunity and treatment is wage structure and scale.** The legal basis is the Law No. 13, Year 2003, on *Labour* and the Minister of Manpower and Transmigration Decree No. 49, Year 2004, on the *Provision of Wage Structure and Scale*. Employers should set the wage structure and scale by considering the classification, working period, position, education, and competence of workers. In its application, all five factors should be considered during the work evaluation.

Other than the five factors, employers should also include other factors in the work evaluation, such as responsibility, level of difficulty of the work, occupational risk, and its stake for the company in the consideration of wage structure and scale. **To ensure that discrimination does not occur in the preparation of wage structure and scale, employers are not allowed to include a certain sex in the requirements of an occupation.**

Discrimination practices could also occur during the work evaluation, to upgrade or improve the wage structure, whereby the employer discriminates on the basis of the worker's sex.

The wage components consists of a principal wage and an allowance. If an Employer is going to provide family allowance to workers/labours, then the allowance should not be provided only for men workers/labours. Family allowance such as husband allowance, wife allowance, and child allowance could take the form of permanent allowance provided for all workers, both men and women.

### **Employers are prohibited from providing different principal wage and allowance to men and women workers/labours.**

For example, employers are prohibited to provide family allowance only for male workers/labours, but the following should be considered:

- a. If a husband and wife work at different firms, then both of them have the right to family allowance;
- b. If a husband and wife work at the same firm, then husband/wife allowance is provided for either the husband or the wife.

In order to prevent discrimination, **the provision of family allowance should consider the following:**

- a. If the employer is going to provide family allowance to workers/labours, then the allowance should not only be provided to male workers/labours;
- b. If a husband and wife work at the same firm, then husband/wife allowance is provided for one of them, by calculating the wage level that is more advantageous;
- c. If a husband and wife work at the same firm, then in order to determine husband/wife and child allowance, the respected parties should make the choice;
- d. If a husband and wife work at different firms, then both of them have the right to family allowance. The basic consideration for this provision is because the husband and wife receive wages from different sources;
- e. If a husband and wife work at different firms, then both of them have the right to family allowance. The basic consideration for this provision is because every worker/labour has equal right of allowance provision.

In terms of wages for extra working hours, the basic and method of calculating the wage refers to the provision of wage for extra working hours that equally applies to both men and women workers. In practise, there is a possibility of discrimination in providing the opportunity for men and women workers/labours to work extra hours. To ensure that discrimination does not occur, **employers should make aware to workers the opportunity**

**of working extra hours, to all workers/labours, regardless of their sex.** Therefore, all workers/labours have equal opportunity to earn an additional income.

## **2. Welfare**

Workers' welfare is key in the creation of harmonious, dynamic and dignified employment relations. Factors that affect workers' welfare are, among others, wage levels, social security, provision of welfare facilities, employees' cooperative, and productive business at the firm.

The provision of a workers' facility is a very strategic program. The program needs to be prioritised in order to develop a conducive climate for the creation of facilities and services for workers and their family. Therefore, employers and workers, with full realization, could exercise their rights and duties for the welfare of workers and their family.

### **Welfare facilities are, among others:**

- a.** A clinic (providing enough medicine, proper medics) that is accessible for all workers/labours;
- b.** Transportation facility for all workers/labours;
- c.** A proper praying room;
- d.** A cooperative that is accessible for all workers;
- e.** Equal treatment for men and women workers to get mess or housing facility;
- f.** Day care centre for children.

Every worker has a responsibility to him/herself and to his/her family. The manifestation of family responsibility is the fulfilment of needs of the family life, which has to be supported both by men and women workers. In this case, it has to be understood that the head of family could be either a man or a woman.

For single-parent women workers, it is appropriate to treat them as the head of a family because they have to support their child. Moreover, all labour laws that are related to women workers'

rights (for example: maternity leave) do not pose a limitation on whether the women workers are married or not. Therefore, there should not be any different treatment for women workers who are married and those who are not.

**When the working conditions are drafted, the provisions it contains should not lead to different treatment of workers due to family responsibility and their status within the family (i.e. head of single parent households or not).**

### 3. Employment Social Security

The employment social security net programme (Jamsostek) aims to provide protection from the risk of income reduction or loss of income due to occupational accident, illness, death, and retirement period of worker/labour. The social security programme, according to the Law No. 3 Year 1992 on Employment Social Security consists of Insurance for Accident at Work (*Jaminan Kecelakaan Kerja - JKK*), Retirement Benefits (*Jaminan Hari Tua - JHT*), Death Insurance (*Jaminan Kematian - JK*), and Health Insurance (*Jaminan Pemeliharaan Kesehatan - JPK*). **All these programmes must be provided to all workers regardless of their sex.** Employers who have their own health insurance program for their workers/labours with better benefits than those of the Basic Health Insurance do not have the duty to join JPK.

Discrimination practices could occur if the employer only registered some of his/her workers in Jamsostek programme. Discrimination practices could also occur under the JPK program that is run by the employers themselves, for example: female-headed single-parent households are categorised as “single”, thus her family is not entitled to health care benefits. Meanwhile, male workers/labours with families are entitled to health care benefits for their families. In order to avoid this practice, the implementation of the JPK program can be made in accordance with EEO, and this could be regulated in the employment contract, company regulations, or collective working agreement.

## 4. Working Conditions and Environment

The work environment should be made comfortable for both men and women workers.

Most places for work were built with a traditional approach that often did not consider the sexes of the workers. For example, many companies or factories have toilets that do not consider women workers' needs.

### a. Specific Norms for the Protection of Female Workers/Labours

Equal employment opportunity stated in Articles 5 and 6 of the Manpower Act (Law No. 13 of 2003) stipulates an understanding and awareness for the respect and protection of the basic rights that are naturally obtained by human beings/workers, and they may not be disputed in the provision of equal employment opportunity.

Female workers/labours, who naturally play the reproductive role (i.e. getting pregnant, giving birth, and breast feeding) are given special protection by Law No. 13 of 2003, in that it covers the right for menstrual leave, pregnancy leave, maternal leave, or miscarriage leave, as well as the opportunity to breastfeed the child, and specific obligations to employ them at night, which must be respected and protected.

In other words, the existence of female workers/labours with their reproductive function should not cause any difference in terms of treatment and opportunity in entering the field of work. The principle firstly intends to ensure the basic (special) rights of the respected female workers/labours, and to get equal opportunity and treatment in the work place.

The basic principle of "equal employment opportunity" is that workers would not be limited in their work because of their responsibility that is related to their reproductive function, biological needs, religious duty, and so on. Employers have to ensure that they are implementing the prevailing legislation in regards to working hours, rest hours, and leave for religious practices, menstruation leave, maternal leave, and so on.

## **b. Arrangement of Workplace and Production Equipment/Facility**

The arrangement of workplace and production equipment/facility at the work place should meet the occupational health and safety standards, including the provision of occupational health and safety equipments, toilets, changing room, lighting, a place to rest and a dining room.

Physical modification for a more comfortable work place would bring many benefits, not only for the workers but also for the customers who visit the company.

The work place is a place of activity, that can produce a service or product. In order to work optimally in the work place, the working conditions and environment should be healthy and safe. Thus, the human factor should be considered in order for workers to work properly, comfortably, and have some protection. So the firms should consider, among others:

- ♦ The economic factor, for example, for pregnant women workers, there should be appropriate chairs available in order for them to work comfortably, so the work will not disturb their health.
- ♦ In selecting self-protection equipment (alat pelindung diri – APD), the prevailing requirements must be met, and the quality of the equipment should not be different from that of management.

## **c. Prevention of sexual harassment in the work place**

A work place cannot be called safe if at that place, discrimination or behaviour that leads to harassment still occurs. Harassment includes unwanted acts or behaviour, both verbally as well as physically, for example, various activities related to sexual harassment, poking/nudging, and so on.

Sexual harassment is defined as an unwanted act or behaviour, both physically and verbally, that violates the social norms, which is made once or more by the perpetrator for the purpose of sexual pleasure that is unwanted by the victim

(not mutual) and it is considered as something that threatens his/her well-being, physically, psychologically, socially and economically.

The forms of sexual violence and harassment that often occur in the work place includes, among others:

- ♦ Physical violence and harassment (for example: rape, alleged or actual)
- ♦ Verbal violence and harassment
- ♦ Violence and harassment from gestures
- ♦ Violence and harassment through writings, phone calls, visuals, and other unwanted sexual objects
- ♦ Emotional violence and harassment
- ♦ A force or an urge to commit unwanted sexual act
- ♦ Unwanted physical contact such as touching, nudges, poke, or pinch
- ♦ Sexual and unwanted joke, humour, taunt, or question.

An effort needs to be made to address these acts of sexual violence and harassment in the case of complaints made. Sexual harassment cases are often found in companies that employ many women workers, such as textile, garment, electronics, restaurant, etc.

Sexual harassment and violence at the work place (according to the principle of respect and dignified treatment for all workers) remains difficult to be complained by the victims due to many obstacles. The obstacles includes concerns over how society would respond to it, concerns over personal safety, the fear of losing one's job, and the lack of consultation between workers and management.

**In order to prevent harassment, it is expected that the firms could make or enforce a code of conduct or disciplinary regulation for workers/labours, which is followed by sanctions that are proportional to the weight of the violation.** The code of conduct could be linked to Company's Regulation or Collective Working Agreement.



The company should also set a mechanism and procedure for complains on worker harassment. Moreover, companies also need to handle the settlement of harassment complaints seriously, according to the regulation and procedures set by the company.

## 5. Arrangement of Working Requirement

Working requirements that contain the rights and duties of employers and workers is a form of regulation that prevails at the firm, that is translated into employment contract (Perjanjian Kerja – PK), company regulation (Peraturan Perusahaan – PP) or collective working agreement (Perjanjian Kerja Bersama – PKB). The working requirements need to be met by, and complied by, both parties.

The Manpower Act (Law No. 13 of 2003) prohibits discrimination. However, in the arrangement of working requirements, different treatment often occurs, for example, female workers are considered single; the retirement age of female worker/labour is lower than that of men; the opportunity to participate in education and training abroad is prioritised for male workers/labours; promotion opportunities are prioritised for male workers/labours; different facilities are provided for men and women workers/labours; arrangement of workers/labours acceptance. Therefore, in order to prevent discrimination, employers should avoid arrangements that can be interpreted as discrimination.

**For equal employment opportunity purposes, every working requirement made in a company should avoid a provision or practice, both in the Employment Contract, Company Regulation, or Collective Working Agreement, that can be interpreted as discrimination between men and women workers.**



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# CHAPTER 7

## Closing





# CHAPTER VII

## CLOSING

One of the efforts to uphold human rights and worker's rights in the work place is by implementing equal employment opportunity. The effort is important because it will increase workers' welfare and company's efficiency.

The Guideline is expected to become a reference for players in the work place, h involving workers/labours and the firms to implement EEO.

Other matters that have not been stated in this Guideline would be used as an input for refinement in the future. The Guideline is to be followed by a Follow Up Plan and/or Action Plan for Implementation.

### WHERE TO ASK ABOUT EEO ?

- ♦ **Task Force *Equal Employment Opportunity (EEO)***  
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