

Age Discrimination in the Recruitment Process and the Role of the Government

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Abstrak

Penelitian ini mengkaji isu diskriminasi usia dalam proses rekrutmen di Indonesia. Lowongan kerja sering kali membatasi pelamar pada rentang usia yang sempit, sehingga mengecualikan pekerja berusia lanjut yang memenuhi syarat dan menghambat pertumbuhan ekonomi. Penelitian ini menggunakan pendekatan analisis kualitatif untuk mengkaji diskriminasi usia dalam proses rekrutmen, data diambil dari dokumen relevan seperti jurnal dan sumber online lainnya. Penelitian ini menganalisis kelemahan bias usia dan menyoroti manfaat dari angkatan kerja yang beragam, termasuk pekerja berusia lebih tua yang berpengalaman. Studi menunjukkan pekerja yang lebih tua dapat menawarkan keterampilan, pengalaman, dan loyalitas yang berharga. Selain itu, undang-undang diskriminasi usia di negara-negara lain telah terbukti meningkatkan prospek pekerjaan bagi pekerja lanjut usia. Pemerintah Indonesia perlu memainkan peran yang lebih aktif dalam mengatasi diskriminasi usia. Penelitian ini mengusulkan dua strategi utama: (1) legislasi, untuk menerapkan peraturan yang secara eksplisit melarang diskriminasi usia dalam perekrutan. Hal ini akan menyelaraskan Indonesia dengan negara-negara maju lainnya dan melindungi hak-hak pekerja, dan (2) *affirmative action*, dengan mempertimbangkan penerapan kuota untuk mempekerjakan pekerja yang lebih tua, khususnya di perusahaan-perusahaan besar. Hal ini dapat menjadi langkah sementara untuk mengatasi kekurangan talenta saat ini dan mendorong praktik perekrutan yang inklusif.

Kata Kunci: *diskriminasi usia, kebijakan public, rekrutmen, tempat kerja*

Abstract

This paper examines the issue of age discrimination in the Indonesian recruitment process. Job vacancies often restrict applicants to a narrow age range, this practice excludes qualified older workers and hinders economic growth. This research employed a qualitative content analysis approach to examine age discrimination in the recruitment process. Data were extracted from relevant documents such as journals and other online sources. The research analyzes the drawbacks of age bias and highlights the benefits of a diverse workforce that includes experienced older workers. Studies show older workers can offer valuable skills, experience, and loyalty. Additionally, age discrimination laws in other countries have demonstrably improved employment prospects for older workers. The paper argues that the Indonesian government needs to play a more active role in addressing age discrimination. It proposes two key strategies: (1) legislation, to implement regulations explicitly prohibiting age discrimination in recruitment. This would align Indonesia with other developed economies and protect workers' rights, and (2) Affirmative Action, consider implementing quotas for hiring older workers, particularly in larger enterprises. This could be a temporary measure to address the current talent shortage and encourage inclusive hiring practices.

Keywords : *age discrimination, policy, recruitment, workplace*

INTRODUCTION

In Indonesia, most job vacancies have restricting age requirements, which only allow people in the range of 25 to 30 years old to work (*theconversation.com*, 2023). Workers over 40 years old who got laid off find it difficult to change professions after pursuing a field for a long period of time (*liputan6.com*, 2017). The American Association of Retired Persons (AARP) notes that when people over the age of 50 lose their jobs, it usually takes them twice as long to find a job than younger workers (*republika.co.id*, 2020). On the other hand, research conducted by the ManpowerGroup reported that 75% of employers are facing difficulties in filling roles.

Ministry of National Development Planning of the Republic of Indonesia (in *kompas.com*, 2019) stated that although there are many industries with a lot of vacancies, they

still find difficulties in finding the right workers because their competencies don't match the vacancies. Another research conducted by Korn Ferry predicted that by 2030, Indonesia could have shortages of up to 18 million skilled workers. Globally, the demographics of the workforce is facing a change due to the combination of a low birth rate and increase in longevity. This, combined with a global talent shortage, forced companies to expand their talent to mature workers (Forbes, 2023). It is possible for Indonesia to face the same fate in the future as the country is consistently facing declining birth rate, even some regions such as all of Java and Bali (except West Java) are experiencing number of births below the ideal level (*Kompas.id*, 2023).

To mitigate that foreseeable future, companies should start an inclusive and non-age discriminatory recruitment to save themselves from talent shortage. The discourse of whether age discrimination is *indeed* a discrimination remains a debate within the scope of employment in Indonesia. Gajah Mada University (UGM) Labor Observer, Tadjudin Nur Effendi, believes that companies should not use age limits as a benchmark for recruitment. Because recruitment considerations should be based on competency. However, the constitutional judge (MK) stated that the age limit for job applicants does not constitute a form of discrimination (CNN Indonesia, 2024).

In the 2003 Manpower Law, there are no provisions that explicitly prohibit age limits. However, Article 5 states that "Every worker has the same opportunity without discrimination to obtain work." To effectively address the looming talent shortage and ensure a sustainable workforce, government intervention is crucial. By implementing policies that promote lifelong learning, reskilling, and upskilling, the government can equip older workers with the necessary competencies to remain competitive in the job market. Additionally, by fostering a supportive environment for businesses, such as providing tax incentives for companies that employ older workers or invest in employee training, the government can incentivize inclusive hiring practices. A collaborative effort between the government, businesses, and educational institutions is essential to build a resilient workforce.

This article seeks to refute the companies' concern in hiring a certain age-group of people and emphasizes the role that the government should take in regulating age-based discrimination in the recruitment process.

METHOD

This research employed a qualitative content analysis approach to examine age discrimination in the recruitment process. Data were extracted from relevant documents such as journals and other online sources. Journals and online newspapers were chosen based on their relevance to the topic. A total of 16 journals were identified and analyzed and a total of 10 newspapers were included in the study. Relevant articles were identified and systematically analyzed using a coding framework developed for this research.

RESULT AND DISCUSSION

Age Discrimination in the Recruitment Process

Ageism, like prejudice based on gender or race, involves stereotypes and unequal treatment (Butler et al., 2018; Wu & Sun, 2021). It's surprisingly common, with employers passing over qualified older workers due to age bias (Liat in Wu & Sun, 2021). It is possible that even if employers have difficulties in finding suitable employees, they still are not willing to employ older workers due to negative age stereotypes (Riekhoff et al., 2023).

Two main reasons for age discrimination in hiring are identified as taste-based discrimination and statistical discrimination. In taste-based discrimination, recruiters simply hold negative biases against middle-aged and older workers (Wu & Sun, 2021; Lossbroek et al., 2021). The other is statistical discrimination. This happens when recruiters can't accurately assess individual skills due to limited information about applicants. Instead, they rely on stereotypes about entire age groups (Wu & Sun, 2021; Lossbroek et al., 2021). Studies by Turek and Henkes (2020) confirm this, showing that older applicants are less likely to get interviews and job offers. This can also lead managers to pursue alternative solutions, such as hiring part-time workers, offering higher wages to attract younger applicants, or using foreign labor or technology instead of hiring older workers (Lau et al., 2019; Lossbroek et al., 2021).

There's a common misconception that older workers become less effective with age, with stereotypes suggesting declining skills, motivation, and even health (Wu & Sun, 2021; Batinovic et al., 2023). This bias extends to assumptions about their overall well-being and commitment (Lossbroek et al., 2021). However, Posthuma & Campion (in Wu & Sun, 2021) and the World Health Organization (in White, 2018) found little evidence of a direct decline in work performance with age. In fact, experience often leads to improved performance, with any decline being minimal. These findings show that there is no direct correlation between age and work performance (Wu & Sun, 2021; Riekhoff et al., 2023).

Experienced workers bring value for organizations by increasing employee loyalty, decreasing employee turnover, as well as increasing employee productivity. Evidence also indicates that older workers often perform on jobs as effectively as their younger counterparts and demonstrate a high motivation on the job. They don't just serve as supporting roles like mentoring and advising younger generations.

Older workers tend to value more soft skills, such as social skills, management skills, reliability, and loyalty, whereas younger workers tend to appreciate hard skills (Vasconcelos et al., 2018). The ManpowerGroup lists the most searched soft skills in the digital age, a few of them are reliability, self-discipline, resilience and adaptability, which are all present in older workers. A study by OECD shows that a firm with a 10% higher share of workers aged 50 and over is 1.1% more productive.

Aging workers bring valuable resources to the workplace because of their experience and education (Kroon et al in White et al., 2018). Examples of successful hiring practices targeting older workers exist around the world. In the US, companies like H&R Block benefit from hiring experienced accountants. Similarly, Maybank Singapore has a thriving age-inclusive workforce, where senior employees share their expertise with younger colleagues. (tal.sg, 2019).

Age bias costing companies great talent. Studies show age discrimination is a real problem, like job ads seeking "young" or "bubbly" workers (Hannekam et al., 2018). These age restrictions shut out qualified candidates early on, causing companies to miss out on potentially great hires. Recruiters could fix this by applying these initiatives:

1. Clear, Skill-Based Language: Ditch vague terms like "tech-savvy" or "recent grad." Focus on the specific skills needed for the job, like "programming languages (Python, etc.)".
2. Age-Neutral Applications: Remove unnecessary details from applications that could reveal age. Let candidates highlight experience in years, not start and end dates, on their CVs.
3. Diverse Interview Panels: Use interview panels with multiple people representing a variety of backgrounds and ages.

With rising retirement ages, companies need to tap into the skills of older workers (Batinovic et al., 2023). This isn't just about being inclusive, it can actually boost productivity

(Batinovic et al., 2023). Research shows older workers bring valuable experience and confidence, which fuels creativity, a key factor for business success (Vasconcelos et al., 2018). Recruiting skilled employees has become increasingly challenging. As a result, maintaining a positive employer image has become crucial, that can help them attract and retain potential and current employees. Job seekers today, especially younger generations, are looking for companies that embrace diversity and inclusion (Diversity and Inclusion: Global Strategic Business Report, 2023). A strong employer image that values all kinds of people, like gender, age, race, and sexual orientation (Confetto et al., 2023), can help companies attract and keep top talent.

The Role of The Government

Age discrimination in the workplace is a pervasive issue that can have significant negative consequences for individuals, businesses, and society as a whole. Governments play a crucial role in regulating age discrimination to ensure fairness, protect workers' rights, and promote economic growth. Other countries have regulations that prohibits age discrimination in the workplace. Some of the examples are mentioned in the table below.

Table 1.1

Country	Regulation	Explanation
United States of America	Age Discrimination Act of 1975	Protects certain applicants and employees 40 years of age and older from discrimination on the basis of age in hiring, promotion, discharge, compensation, or terms, conditions or privileges of employment.
United Kingdom	Equality Act 2010	Employers cannot treat job applicants differently based on their age. For example, they cannot advertise for a job that requires a specific age range or refuse to interview an applicant because of their age. Additionally, employers must have a legitimate reason for any age-related requirements in job specifications and cannot use age as a reason for rejecting an applicant unless it is a genuine occupational requirement.
Australia	The Age Discrimination Act 2004	Prohibits age discrimination when advertising jobs, during recruitment and selection processes, when making decisions about training, transfer and promotion opportunities and in the terms, conditions and termination of employment.
European Union	Employment Equality Directive (2000/78/EC)	European Union has set up a general framework for equal treatment in employment and occupation, empowering it to combat discrimination based on age among other things. It doesn't allow for direct or indirect discrimination.

Source: US Department of Labor, Gov.UK, Australian Human Rights Commission, European Commission

Research indicates that age discrimination laws has positively impacted the employment prospects of older workers. For instance, Adams (in Neumark, 2019) found that the implementation of state and subsequently federal age discrimination laws led to increased employment rates among older individuals. Additionally, Neumark and Stock (in Neumark, 2019) demonstrated that these laws strengthened the employment relationship between older workers and their employers. This can be interpreted as evidence suggesting that age discrimination laws made it more difficult for employers to terminate the employment of older workers who had established long-term relationships with their companies.

Another research finds evidence that there is less discrimination against older men and women in states where age discrimination law allows larger damages (Button et al., 2019). Based on the finding, it is clear that the government of Indonesia should legislate a regulation that protects job seekers and workers from age discrimination. The first step that they should do should be recognizing that age discrimination, is, in fact, a form of discrimination. With the



state doesn't recognize age requirements as a discrimination practice (CNN Indonesia, 2024), age restrictions in job vacancies became the norm and are considered normal in Indonesia. For example, even job vacancies that were distributed by the Ministry of Manpower has a maximum age limit of 25 years (The Conversation, 2023).

In the case of the impact of the Age Discrimination Act of 1975 in the United States, while research suggests that age discrimination laws have positively impacted labor market outcomes for older workers, such increasing employment rates and strengthen the employment relationship between older workers and firms, there is only limited evidence on the impact of these laws on age discrimination in hiring, which is a critical area to address given the aging population (Becker, 2022). While a research conducted in Australia found that the Age Discrimination Act of 2004 in Australia has not been effective in curbing age discrimination against mature age workers in the workplace. This is caused by complex legislative definitions of discrimination, restrictive court interpretations, difficulties with proving a discrimination complaint, the absence of positive equality obligations, and the lack of agency enforcement and reporting requirements (MacDermott, 2011).

Researches in the countries where regulations regarding age discrimination are present still find those laws insufficient for the eradication of age discrimination practice in the workplace. This should be highlighted in the context of Indonesia because such laws don't even exist, meaning that we are far behind in protecting our older workers. Because legislation alone isn't enough based on the findings, the government of Indonesia should issue an affirmative action that forces companies to hire or employ workers above 40 using a quota system. This could be implemented in larger enterprises with more than a 1.000 employees.

One of the primary reasons for government regulation of age discrimination in recruitment is to protect the rights of older workers. Ageism, often rooted in stereotypes and biases, can lead to unfair treatment in the hiring process. Older workers may be overlooked or rejected due to assumptions about their capabilities, adaptability, or potential for long-term commitment. Such discrimination not only violates individuals' rights to equal opportunity but also perpetuates harmful stereotypes that can have a significant impact on their self-esteem and overall well-being.

Government regulation can play a vital role in addressing age discrimination in recruitment. By enacting and enforcing laws that prohibit age-based discrimination in hiring practices, governments can create a more equitable and inclusive labor market. These laws should clearly define what constitutes age discrimination and outline penalties for non-compliance. In addition to legal measures, governments can promote awareness and education about age discrimination. Public campaigns can help to dispel harmful stereotypes and foster a more inclusive workplace culture. Educational programs can be offered to employers to provide them with information on the benefits of hiring older workers and best practices for avoiding age discrimination. governments can incentivize businesses to adopt age-inclusive hiring practices. This could involve providing tax breaks or other financial incentives to companies that demonstrate a commitment to diversity and inclusion in their recruitment processes. Additionally, governments can support initiatives that promote lifelong learning and reskilling for older workers, enabling them to stay competitive in the job market.

CONCLUSION

This paper explores the issue of age discrimination in the Indonesian recruitment process. It highlights the common practice of restricting job vacancies to narrow age ranges, often excluding older workers. Despite the potential benefits of hiring experienced older workers, age bias persists due to negative stereotypes and misconceptions. The research also

emphasizes the need for government intervention to address age discrimination. It suggests that Indonesia should implement regulations explicitly prohibiting age discrimination in recruitment, and consider affirmative action measures to encourage inclusive hiring practices.

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