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Defining employment discrimination in Malaysian legal context (Article)

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Abstract

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Discrimination deprives people of equal rights. It creates barriers to employment and resulted in people's right to full participation in the workplace jeopardised. Consequently, people are denied jobs, confined to certain occupations, offered with lower pay, refused promotion and increment, and so on. The grounds for discrimination are commonly owing to their 'physical appearance' such as sex, race, the colour of skin, faith or religion regardless of the capabilities and abilities to performing the job. Therefore, promoting equality by eliminating various forms of discrimination is essential. This paper is looking at employment discrimination from the legal perspective. Generally, the meaning and elaboration of employment discrimination together with its types and grounds are presented by considering other jurisdictions, particularly the United Kingdom, that has her antidiscrimination law namely Equality Act 2010. Owing to the absence of anti-discrimination law in Malaysia, the authors founded the discussion on this Act of the UK while the analysis of employment discrimination in Malaysia is presented by analysing the related court cases. The paper showed that employment discrimination did occur in Malaysia. This paper is expected to give some limelight and reflection on the issues concerned principally in defining employment discrimination within the Malaysian legal context. © 2020 Universiti Putra Malaysia Press.

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-
- ☐ 1 Ahmad Tajuddin bin Hj Ishak v Suruhanjaya Pelabuhan Pulau Pinang (1997) *MLJ*, 1, p. 241. Mal.
-
- ☐ 2 Ahmad, A.
Participation of Malaysian women in employments: A gender stratification analysis (1999) *Women and Work Challenges in Industrialising Nations*, pp. 25-42. Cited 3 times.
M. Ismail & A. Ahmad (Eds.). London, England: ASEAN Academic Press
-
- ☐ 3 AirAsia Berhad v Rafizah Shima binti Mohamed Aris (2014) *MLJU*, p. 606. Mal.
-
- ☐ 4 Beatrice Fernandez v Sistem Penerbangan Malaysia & Anor (2005) *CLJ*, 2, p. 713. Mal.
-
- ☐ 5 Brouwers, E.P.M., Mathijssen, J., Van Bortel, T., Knifton, L., Wahlbeck, K., Van Audenhove, C., Kadri, N., (...), Laguado, A.
Discrimination in the workplace, reported by people with major depressive disorder: A cross-sectional study in 35 countries ([Open Access](#))
(2016) *BMJ Open*, 6 (2), art. no. e009961. Cited 24 times.
<http://bmjopen.bmj.com/content/6/2/e009961.full.pdf+html>
doi: 10.1136/bmjopen-2015-009961
[View at Publisher](#)
-
- ☐ 6 Burton, W.C.
(2006) *Burton's Legal Thesaurus*. Cited 10 times.
(4th ed.). New York, USA: McGraw-Hill
-
- ☐ 7 (2019) *Racism in Recruitment: A Study on Racial Bias for Entry Level Jobs in Malaysia*
Retrieved July 25, 2019
<https://centgps.com.my/wp-content/uploads/2019/03/Racism-in-Recruitment-A-Study-on-Racial-Bias-For-Entry-Level-Jobs-in-Malaysia-.pdf>
-
- ☐ 8 Collins, H.
(2003) *Employment Law*. Cited 52 times.
Oxford, England: Oxford University Press
-
- ☐ 9 Connolly, M.
(2004) *Townshend-Smith on Discrimination Law: Text, Cases and Materials*. Cited 12 times.
(2nd ed.). London, England: Cavendish Publishing Limited
-

-
- ☐ 10 (2017) *Judgments in Cases C-157/15 Achbita v G4S Secure Solutions*
[Press Release No 30/17]. Luxembourg City, Luxembourg: Author
-
- ☐ 11 Darby, J.
Introduction to discrimination law
(2005) *Discrimination Law*
A. -M. M. Cotter & J. Moffatt (Eds.), London, England: Cavendish Publishing Limited
-
- ☐ 12 Deakin, S., Morris
(2012) *Labour Law*. Cited 119 times.
(6th ed.). Oxford, England: Hart Publishing
-
- ☐ 13 (2017) *Salaries and Wages Survey Report, 2016*
(Labour Force Survey Report). Putrajaya, Malaysia: Author. Retrieved August 15, 2019
https://dosm.gov.my/v1/index.php?r=column/cthemByCat&cat=157&bul_id=U3JoKzFiekE5WFFKK0VMRWQ0a2FDQT09&menu_id=U3VPMIdoYUxzVzFaYmNkWXZteGduZz09
-
- ☐ 14 Ealing LBC v Race Relations Board
(1972) AC, p. 342.
U.K.
-
- ☐ 15 Emir, A.
(2018) *Selwyn's Law of Employment*
(20th ed.). Oxford, England: Oxford University Press
-
- ☐ 16 Grant, B.
(2002) *Employment Law: A Guide for Human Resource Management*
London, England: Thompson
-
- ☐ 17 Hassan, K.H.
(2008) *Cabaran Perundangan Dalam Hubungan Majikan-pekerja: Sektor Awam Dan Swasta [Legal Challenges in Employer-employee Relations: The Public and Private Sectors]*
Bangi, Malaysia: Penerbit UKM
-
- ☐ 18 Hongchintakul, T., Kleiner, B.H.
Discrimination and harassment in the United States Postal Service

(2001) *International Journal of Sociology and Social Policy*, 21, pp. 184-191.
doi: 10.1108/01443330110789736

View at Publisher
-
- ☐ 19 (2010) *SUHAKAM's Report on the Status of Women's Rights in Malaysia*. Cited 2 times.
Selangor, Malaysia: Sepantas Kurnia Sdn. Bhd
-

-
- ☐ 20 Hutchings, K.
Workplace Practices of Japanese and Australian Multinational Corporations Operating in Singapore, Malaysia and Indonesia

(1996) *Human Resource Management Journal*, 6 (2), pp. 58-71. Cited 10 times.
doi: 10.1111/j.1748-8583.1996.tb00404.x

[View at Publisher](#)
-
- ☐ 21 Integrated Forwarding & Shipping Bhd. v Rozia Abdullah
(2000) *ILR*, 1, p. 338.
Mal.
-
- ☐ 22 (2011) *Equality at Work: The Continuing Challenge (Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work - International Labour Conference 100th Session 2011 Report I(B))*
Geneva, Switzerland: ILO Publications
-
- ☐ 23 Jaafar, H.J., Wahab, H.A., Yaacob, N.
Management practices of disabled workers in an organization under the law in Malaysia

(2017) *Jurnal Pengurusan*, 51.
<http://ejournal.ukm.my/pengurusan/issue/archive>
-
- ☐ 24 James v Eastleigh Borough Council
(1990) *AC*, 2, p. 751. Cited 2 times.
U.K.
-
- ☐ 25 Koshal, M., Gupta, A.K., Koshal, R.
Women in management: A Malaysian perspective

(1998) *Women in Management Review*, 13 (1), pp. 11-18. Cited 28 times.
doi: 10.1108/09649429810369596

[View at Publisher](#)
-
- ☐ 26 Lee, K.-H., Nagaraj, S.
Male-Female Earnings Differentials in Malaysia

(1995) *The Journal of Development Studies*, 31 (3), pp. 467-480. Cited 14 times.
doi: 10.1080/00220389508422373

[View at Publisher](#)
-
- ☐ 27 Lee, H.-A., Khalid, M.A.
Discrimination of high degrees: race and graduate hiring in Malaysia

(2016) *Journal of the Asia Pacific Economy*, 21 (1), pp. 53-76. Cited 15 times.
<http://www.tandf.co.uk/journals/titles/13547860.asp>
doi: 10.1080/13547860.2015.1055948

[View at Publisher](#)
-
- ☐ 28 Leo Burnett Advertising Sdn. Bhd. v Agnes Ann Rodriguez
(2003) *ILR*, 1, p. 95.
Mal.
-

□ 29 Lokman, T., Atikah, Q.
Workplace woes: Workplace discrimination is common in Malaysia
(2018) *The New Straits Times*
(January 28). Retrieved April 20, 2019
<https://www.nst.com.my/news/exclusive/2018/01/329441/workplace-woes-workplace-discrimination-common-malaysia>

□ 30 McColgan, A.
(2005) *Discrimination Law: Text, Cases and Materials*. Cited 41 times.
(2nd ed.). Oxford, England: Hart Publishing

□ 31 Merdeka University Bhd v Government of Malaysia
(1982) *MLJ*, 2, p. 243.
Mal.

□ 32 (2014) *Complaints to the MOHR. Report of the Human Resources*
Putrajaya, Malaysia: Author

□ 33 Mohamed, A.A.A.
(2007) *Dismissal from Employment and the Remedies*
Kuala Lumpur, Malaysia: Lexis Nexis

□ 34 Mohamed, A.A.A.
Laws ensure equality in workplace
(2017) *The New Straits Times*
(November 25). Retrieved March 21, 2018
<https://www.nst.com.my/opinion/letters/2017/11/307251/laws-ensure-equality-workplace>

□ 35 Moran, J.J.
(2013) *Employment Law New Challenges in the Business Environment*. Cited 4 times.
(6th ed.). New Jersey, USA: Prentice-Hall

□ 36 National Union of Employee in Companies Manufacturing Rubber Products v. Ansel Companies Operating in Melaka
(2014) *ILR*, 4, p. 381.
Mal.

□ 37 Network Railway Infrastructure Ltd. v Gammie
(2009) *EAT*
6 March (U.K.)

□ 38 Ng, C.
Implementing the 2030 agenda for sustainable development in Malaysia: Multi-stakeholder partnership workshop
(2016) *EPU/UNDP Workshop on Implementing the 2030 Agenda in Malaysia*
Paper presented at, a Multi-stakeholder Partnership, Kuala Lumpur, Malaysia

- ☐ 39 Ng, S.H.
NGO: Lift hijab ban on hotel frontliners
(2017) *The Star Online*
(November 13). Retrieved March 21, 2018
<https://www.thestar.com.my/news/nation/2017/11/13/ngo-lift-hijab-ban-on-hotel-frontliners>
-
- ☐ 40 Noorfadilla binti Ahmad Saikin v Chayed bin Basirun and Ors
(2012) *CLJ*, 1, p. 769.
Mal.
-
- ☐ 41 Nor, L.M.
(1997) *The Role of Human Capital in Determining Male-female Earnings and Occupational Differentials in Peninsular Malaysia*
(Unpublished Doctoral thesis), Northern Illinois University, Illinois, USA
-
- ☐ 42 Northern Joint Police Board v Power
(1997) *IRLR*, p. 610. Cited 2 times.
U.K.
-
- ☐ 43 Othman, Z., Othman, N.
A literatural review on work discrimination among women employees (Open Access)

(2015) *Asian Social Science*, 11 (4), pp. 26-32. Cited 4 times.
<http://www.ccsenet.org/journal/index.php/ass/article/download/44259/24084>
doi: 10.5539/ass.v11n4p26

View at Publisher
-
- ☐ 44 Painter, R.W., Puttick, K., Holmes, A.
(2004) *Employment Rights*
(3rd ed.). London, England: Pluto Press
-
- ☐ 45 Price v Civil Service Commissioners
(1978) *IRLR*, p. 3.
U.K.
-
- ☐ 46 Public Prosecutor v Tengku Mahmood Iskandar & Anor
(1973) *MLJ*, 1, p. 128.
Mal.
-
- ☐ 47 R v Birmingham City Council ex parte EOC
(1989) *AC*, p. 1155.
U.K.
-
- ☐ 48 Rajasekar K. Suppiah & Ors v. Malaysian Airline System Berhad & Anor
(2019) *ILR*, 3, p. 366.
Mal.
-

- ☐ 49 Richardson, B., Webb, J., Webber, L., Smith, K.
Age Discrimination in the Evaluation of Job Applicants
(2013) *Journal of Applied Social Psychology*, 43 (1), pp. 35-44. Cited 15 times.
doi: 10.1111/j.1559-1816.2012.00979.x
[View at Publisher](#)
-

- ☐ 50 Sheikh, S.S.S.
The implementation of CEDAW in Malaysia: A human rights-based analysis
(2010) *Sarjana*, 25 (3), pp. 55-72.
-

- ☐ 51 Supercomal Wira and Cable Sdn. Bhd. v Anjana Devi A/P Satiavelu and Others
(2003) *MLJ*, p. 729.
Mal.
-

- ☐ 52 (2007) *Equality at Work: Tackling the Challenges - Global Report under the Follow-up to the Declaration on Fundamental Principles and Rights at Work*
(Report I(B), International Labour Conference 96th Session). Geneva, Switzerland: International Labour Office
-

- ☐ 53 (2017) *World Employment Social Outlook Trends for Women 2017*. Cited 180 times.
Geneva, Switzerland: International Labour Office
-

- ☐ 54 Tomei, M.
Discrimination and equality at work: A review of the concepts
(2003) *International Labour Review*, 142 (4), pp. 401-418. Cited 27 times.
<http://www.interscience.wiley.com/jpages/0020-7780>
doi: 10.1111/j.1564-913X.2003.tb00538.x
[View at Publisher](#)
-

- ☐ 55 (2014) *Malaysian Human Development Report*. Cited 3 times.
Kuala Lumpur, Malaysia: United Nations Malaysia and Prime Minister's Department
-

- ☐ 56 Upex, R., Shrubsall, V.
(1995) *Discrimination in Employment: Law and Practice*. Cited 2 times.
(1st ed.). London, England: Pearson Professional Ltd
-

- ☐ 57 (2018) *Discrimination*
Retrieved January 30, 2018, from
<https://www.humanrightscommission.vic.gov.au/discrimination>
-

- ☐ 58 Willey, B.
(2012) *Employment Law in Context An Introduction for HR Professionals*. Cited 8 times.
(4th ed.). Essex, England: Pearson
-

□ 59 (2016) *More Than 40% Women in Malaysia Face Workplace Discrimination Due to Pregnancy: WAO Survey*
Retrieved March 15, 2018
<http://www.hrinasia.com/hr-news/more-than-40-women-in-malaysia-face-workplace-discrimination-due-to-pregnancy-wao-survey/>

□ 60 Zafar v Glasgow City Council
(1998) *IRLR*, p. 36. Cited 2 times.
U.K.

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