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Business competition has been forcing entrepreneurs to apply various business strategies to be ahead of their competitors. One strategy that is often used is to obstruct workers holding key positions from changing sides and providing their expertise to competitors. One way of doing it is by including a provision in the work agreement that prohibits the worker from working at company that engages in the same business. This provision is commonly called the 'non-competition clause'. In principle, Indonesian Law is silent on the enforceability of non-competition clause. However, the right to work is one of the fundamental human rights protected by the 1945 Constitution under Article 27 paragraph (2) and Article 28 (D) paragraph (2), which is also being recognized under the Human Rights Law of 1999 and the Manpower Law of 2003.

Every person and citizen has the right to work, to earn a humane livelihood, to receive fair and proper remuneration and fair treatment in employment, to be employed in line with their ability and capacity, and to freely choose employment and to equitable conditions of employment (Human Rights to Work). Thus, in the case that the non-competition clause is being construed as preventing a person from accessing any of said rights, then the provision should be deemed violating the fundamental Human Rights to Work. Therefore, such provision should be null and void pursuant to Article 1335 of the Indonesian Civil Code. On the contrary, if the provision containing a non-competition clause is (somehow) formulated in such a manner so as not to violate the Human Rights to Work, then it should be enforceable. Source: Edition 1, Law & Taxes Newsletter published by EKONID (Deutsch-Indonesische Industrie – und Handelskammer) in June 2015 :

http://indonesien.ahk.de/fileadmin/ahk_indonesien/Bilder/Corporate_services/NL_Law___Taxes/Law__Taxes_June_2015.pdf