



ETI briefing: Freedom of association

Workers have a fundamental right to join and form trade unions and to negotiate with employers about working conditions. Yet around the world, both employers and governments often interfere with these rights by victimising trade union officials, interfering with trade union activities, and using threats and other means to prevent genuine freedom of association in a workplace.

What is freedom of association?

Freedom of association is the right of workers to join and form trade unions or organisations of their choosing. Closely linked to this is the right to collective bargaining, which allows workers to freely negotiate their working conditions with their employers. These rights apply to all workers, irrespective of race, religion, gender, occupation, nationality or political opinion. Workers in the informal economy, such as homeworkers, have the same right to freedom of association as those with formal contracts of employment.

Why is it important?

Encouraging and enabling freedom of association has benefits for workers, employees and more widely. For example:

For workers. The development of more mature systems of industrial relations empowers workers to determine their own needs and priorities, and to participate with management in decision making. Joining trade unions or other organisations offers workers protection against discrimination, interference and harassment.

For businesses. Promoting and respecting freedom of association within companies can result in a positive business environment, including better economic competitiveness, quick and easy dispute resolution, skills development and health and safety improvements.¹

Globally. Freedom of association and the right to collective bargaining can play a significant role in a country's democratic transformation as well as economic development.¹

Company responsibilities

The principles of freedom of association and collective bargaining are set out in International Labour Organisation (ILO) conventions and enshrined in the Ethical Trade Initiative (ETI) Base Code.

The **ETI Base Code** requires that:

2. Freedom of association and the right to collective bargaining are recognised

2.1 Workers, without distinction, shall have the right to join or form a trade union of their own choosing and to bargain collectively.

¹ These and other benefits are discussed in more detail in the ILO report, *Freedom of Association and Development*, 2011
<http://bit.ly/zAvuZZ>

Box 1. Typical freedom of association abuses

- **‘Paper’, ‘tame’ or ‘yellow’ unions, and paternalism.** Companies may allow workers to be members of a union, but will make sure that the union does very little on behalf of those workers (eg employers could set up unions that act in management’s interests).
- **Export processing zones.** Many governments will seek to exclude trade unions from organising within EPZs, even if workers are free to organise elsewhere in the country. This is always a breach of the ETI Base Code.
- **Access to the workforce.** Employers may inhibit unions from being able to communicate with the workers.
- **Interference with union activity.** Companies may seek to influence elections, or influence the ability of the union to represent the interests of its members.
- **Victimisation.** Union representatives may be subjected to discrimination, intimidation and even violence or murder.
- **Refusal to recognise and bargain.** Companies may allow their workers to join unions, but undermine its value by refusing to recognise or bargain with the union.
- **Denial of information.** In order to prevent trade union representatives from bargaining meaningfully, some employers refuse to provide them with appropriate information about the issues to be negotiated.
- **Threats which inhibit bargaining.** Companies can use threats to inhibit unfairly the workers’ bargaining position, eg threatening to move operations elsewhere.

2.2 The employer adopts an open attitude towards the activities of trade unions and their organisational activities.

2.3 Workers’ representatives are not discriminated against and have access to carry out their representative functions in the workplace.

2.4 Where the right to freedom of association and collective bargaining is restricted under law, the employer facilitates, and does not hinder, the development of parallel means for independent and free association and bargaining.

The key ILO standards addressing freedom of association are shown below:

Freedom of Association and Protection of the Right to Organise Convention (No 87), 1948. This Convention enshrines the right of workers to join a trade union of their choice, the right to independence from government and employer interference, and the right for trade unions to elect officials and organise their own affairs.

Right to Organise and Collective Bargaining Convention (No 98), 1949. This Convention provides for protection against anti-union discrimination, for protection of workers’ and employers’ organisations against acts of interference by each other, and for measures to promote and encourage collective bargaining.

The challenges

Despite the fact it is a fundamental right and can bring many benefits, the right to freedom of association is not recognised or implemented in many countries around the world. Companies (retailers, brands and suppliers) can find it difficult to understand why freedom of association is so important, and do not know how to implement it in practice or monitor progress in achieving it. In more extreme cases, employers may interfere with these fundamental rights and prevent genuine freedom of association existing in the workplace. Box 1 highlights some typical ways of preventing its achievement; these are a clear violation of the ETI Base Code.

What should retailers do?

Retailers and brands have a responsibility to ensure that the right to freedom of association and collective bargaining are respected and that there is an open attitude to trade unions and their activities, and to work with their suppliers to find a constructive solution where this is not the case. Key ways they can do this are shown below.

- **Identify and monitor freedom of association.** Retailers should ask detailed and searching questions to establish if freedom of association and the right to collective bargaining are being respected in their supply chains. The best indicator of this is that a significant proportion of the workforce are members of an appropriate independent trade union. Obviously, in many situations (eg in the informal sector and in countries where free unions are prohibited) membership of a trade union is not always possible. However, even where unions organise freely and independently, it can be

Box 2. Tips on finding out whether freedom of association is being respected

- Establish what the local climate is. What is the usual attitude of employers to unions?
- Talk to workers – in a situation/location where they feel free to open up (eg outside the workplace).
- Ask probing questions.
- Does the company have a collective bargaining agreement with a union? What does this cover and how does it compare to legal minimum requirements?
- How often do genuine negotiation meetings take place?
- Are all workers allowed to take part in union activities?
- Are union leaders more or less likely to be promoted?
- If the workplace does not have a union, is there a mechanism for raising collective grievances with management?

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K&L/03/12

difficult to assess whether freedom of association genuinely exists. Examples of things to look for are shown in Box 2.

- **Establish good lines of communication.** Good communication between workers and managers helps to resolve disputes more quickly and avoid conflict situations. Retailers and brands should ensure that suppliers establish formal and informal lines of communication in their workplaces.
- **Work with trade unions and local organisations.** Working with trade unions and local non-governmental organisations can help companies address freedom of association. Trade unions are independent, membership-based organisations of workers that represent and negotiate on behalf of working people. Unions provide advice to workers, who are often unaware of their rights, as well as helping improve wages and working conditions by negotiating with employers. Working with a registered trade union can bring a range of benefits to employers, including helping build trust among the workforce, audit compliance with labour codes and increase staff retention and productivity.²

Further resources

ETI has a number of briefing papers and guidance documents on freedom of association, collective bargaining and trade unions:

The Benefits of Working with Trade Unions – outlines these benefits in more detail (<http://bit.ly/y0Am6Z>), 2010.

Freedom of Association and Collective Bargaining – examines these principles in more depth and explains why they are at the heart of the ETI Base Code (<http://bit.ly/zsMOnE>), 2005.

Finding Common Ground: Working with Trade Unions in Supplier Countries – highlights benefits to companies of engaging with trade unions, and provides guidance on how to build and make the most of such partnerships (<http://bit.ly/yfuv4v>), 2005.

Industrial Relations: Raise the Bar – summarises advice and experiences shared by companies, trade unions and NGOs on developing innovative partnerships to make significant progress in implementing the ETI Base Code clauses on freedom of association and collective bargaining (<http://bit.ly/y4gecM>), 2008.

A recent **ILO report, Freedom of Association and Development**, highlights the role of freedom of association in fostering sustainable development. It includes ideas for governments, trade unions and employers on how to work together to achieve real and tangible results for development (<http://bit.ly/nry8Dz>).

² The ETI briefing document, *The Benefits of Working with Trade Unions*, 2010, outlines these benefits in more detail <http://bit.ly/y0Am6Z>