

## Fundamental Principles and Rights at Work Fact Sheet

The fundamental principles and rights at work derive from ILO Conventions and Recommendations, which set international labour standards on a broad range of subjects related to the world of work, including human rights at work, occupational safety and health, employment policy and human resources development. Increasing concerns about the social impact of globalization led the members of the ILO - representatives of government, employers and workers at the international level - to recognize in 1995 that there were four categories of labour standards, expressed in eight conventions (the so-called “core conventions”), that should be considered as fundamental because they protect basic workers’ rights. These categories are:

- a) Freedom of association and the effective recognition of the right to collective bargaining;
- b) The elimination of all forms of forced or compulsory labour;
- c) The effective abolition of child labour; and
- d) The elimination of discrimination in respect of employment and occupation.

The process culminated in 1998 with the adoption of the ILO Declaration on Fundamental Principles and Rights at Work. This Declaration affirms that all ILO Members States, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize the principles concerning the fundamental rights which are the subject of those Conventions.<sup>1</sup>

### Box: Core Labour Conventions<sup>2</sup>

#### **Freedom of association and the right to collective bargaining**

- Freedom of Association and Protection of the Right to Organize Convention (No. 87), 1948
- Right to Organize and Collective Bargaining Convention (No. 98), 1949

#### **Forced Labour**

- Forced Labour Convention (No. 29), 1930
- Abolition of Forced Labour Convention (No. 105), 1957

#### **Child Labour**

- Minimum Age Convention (No. 138), 1973
- Worst Forms of Child Labour Convention (No. 182), 1999

#### **Discrimination in Respect of Employment and occupation**

- Equal Remuneration Convention (No. 100), 1951
- Discrimination (Employment and Occupation) Convention (No. 111), 1958

The adoption of this Declaration has underlined the international community’s determination to take up the challenges posed by globalization. The Declaration aims to ensure that social progress goes hand in hand with economic progress and

<sup>1</sup> For further information about the Declaration, please visit: <http://www.ilo.org/declaration>.

<sup>2</sup> The texts of all ILO Conventions and Recommendations can be found at [www.ilo.org/ilolex](http://www.ilo.org/ilolex).

development. It provides benchmarks for responsible business conduct and is therefore often referred to in CSR initiatives.

The ILO's main tool for promoting labour standards and principles in the corporate world is the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration). The ILO MNE Declaration is unique in this area as it was developed by representatives of governments, employers, and workers, and is the most comprehensive instrument in advancing the labour dimension of CSR.

The ILO MNE Declaration contains recommendations on how companies can voluntarily apply principles deriving from international labour standards in the areas of general policies, employment promotion and security, equality of opportunity and treatment, training, wages and benefits, minimum age, occupational safety and health, and industrial relations. As such, it provides more detailed guidance on labour issues and a more complete picture of how companies can maximize their positive contribution to society, and minimize any negative impacts.

## The relationship between labour principles and business

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ILO Conventions are international treaties, which, upon ratification by a member state, become an obligation that they are transposed into national legislation which ultimately binds companies' operation. Companies must respect national law in their efforts to advance the labour principles.

Although only member States ratify conventions, conventions and recommendations contain principles and valuable guidance which may also be relevant to companies seeking to improve their workplace practices beyond legal compliance. The ILO MNE Declaration takes the principles underlying certain international standards addressed to governments and expresses them as expectations concerning the behaviour of business. A summary of ILO MNE Declaration principles for companies is provided in Annex 1.<sup>3</sup>

The ILO MNE Declaration can provide guidance concerning not only the four labour principles but also other key areas. The ILO MNE Declaration is based on the assumption that certain principles derived from international standards are relevant to enterprises.

## Freedom of association

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Freedom of association implies a respect for the right of all employers and all workers to freely and voluntarily establish and join groups for the promotion and defence of their occupational interests.

Workers and employers have the right to set up, join and run their own organizations without interference from the State or any another entity.

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<sup>3</sup> The text of the ILO MNE Declaration and more information can be obtained at [www.ilo.org/multi](http://www.ilo.org/multi).

Employers should not interfere in workers' decision to associate, try to influence their decision in any way, or discriminate against either those workers who choose to associate or those who act as their representatives.

## Collective bargaining

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Voluntary collective bargaining is a process through which employers and workers discuss and negotiate their relations, in particular terms and conditions of work. Participants include employers themselves or their organisations, and trade unions or, in their absence, representatives freely designated by the workers.

Collective bargaining can only function effectively if it is conducted freely and in good faith by all parties. This implies:

- Making efforts to reach an agreement;
- Carrying out genuine and constructive negotiations;
- Avoiding unjustified delays;
- Respecting the agreements concluded and applied in good faith; and
- Giving sufficient time for the parties to discuss and settle the collective disputes.

Bargaining in good faith aims to reach mutually acceptable collective agreements. Where agreement is not reached, dispute settlement procedures ranging from conciliation through mediation to arbitration may be used.

Workers' representatives should be given appropriate facilities, taking account of the needs, size, and capabilities of the enterprise involved, that will enable them to do their work effectively and allow them to perform their role without interference. Workers' representatives should be provided with information required for meaningful negotiations.

The collective bargaining process also covers the phase before actual negotiations – information sharing, consultation, joint assessments – as well as the implementation of collective agreements. Collective agreements should include provisions for the settlement of disputes.

In order to facilitate negotiations, the use of conciliation and mediation that is voluntary or established by law, may be accepted. On the other hand, arbitration is only legitimate if requested by both parties or required by law.

## The responsibility of government

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To realise the principle of freedom of association and the right to collective bargaining in practice requires a legal basis which guarantees that these rights are enforced. It also requires an enabling institutional framework, which can be tripartite, between the employers' and workers' organisations, or combinations of both. Individuals who wish to exercise their rights to have their voice heard also must be protected from discrimination. And employers' and workers' organisations must

accept each other as partners for solving joint problems and dealing with mutual challenges.

Governments have the responsibility for ensuring that the legal and institutional frameworks exist and function properly. They should also help to promote a culture of mutual acceptance and cooperation.

### Why freedom of association and effective recognition of the right to collective bargaining are important

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Freedom of association enables workers and employers to join together to protect better not only their own economic interests but also their civil freedoms such as the right to life, to security, to integrity, and to personal and collective freedom. As an integral part of democracy, this principle is crucial in order to realize all other fundamental principles and rights at work.

Collective bargaining is a constructive forum for addressing working conditions and terms of employment and relations between employers and workers, or their respective organizations. It can help in anticipating potential problems and can advance peaceful mechanisms for dealing with them; and finding solutions that take into account the priorities and needs of both employer and workers. Sound collective bargaining benefits both management and workers, and the peace and stability it promotes benefit society more generally.

### How companies can uphold freedom of association and the effective recognition of the right to collective bargaining

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Businesses face many uncertainties in this rapidly changing global market. Establishing genuine dialogue with freely chosen workers' representatives enables both workers and employers to understand each other's problems better and find ways to resolve them. Security of representation is a foundation for building trust on both sides. Freedom of association and the exercise of collective bargaining provide opportunities for constructive dialogue and resolution of conflict, and this harnesses energy to focus on solutions that result in benefits to the enterprise and to society at large.

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**In the workplace:**

- Respect the right of all workers to form and join a trade union of their choice without fear of intimidation or reprisal, in accordance with national law
- Put in place non-discriminatory policies and procedures with respect to trade union organisation, union membership and activity in such areas as applications for employment and decisions on advancement, dismissal or transfer.

- Provide information needed for meaningful bargaining
- Provide worker representatives with appropriate facilities to assist in the development of effective collective agreement

**At the bargaining table:**

- Recognise representative organizations for the purpose of collective bargaining.
- Address any problem-solving or other needs of interest to workers and management, including restructuring and training, redundancy procedures, safety and health issues, grievance and dispute settlement procedures, and disciplinary rules.

**In the community of operation:**

- Take into account the role and function of the representative national employers' organizations
- Take steps to improve the climate in labour-management relations, especially in those countries without an adequate institutional and legal framework for recognizing trade unions and for collective bargaining.
- Take steps to preserve the safety and confidentiality of trade unions and their leaders.

## Forced labour

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Forced or compulsory labour is any work or service that is extracted from any person under the menace of any penalty, and for which that person has not offered himself or herself voluntarily. Providing wages or other compensation to a worker does not necessarily indicate that the labour is not forced or compulsory. By right, labour should be freely given and employees should be free to leave, subject to previous notice of reasonable length.

Forced labour is a fundamental violation of human rights. It presents a challenge to virtually every country in the world. The ILO estimates that at least 12.3 million people are victims of forced labour worldwide, 80 per cent of which is exacted by private agents. Most victims receive little or no earnings, and work for long hours in extremely poor conditions, including health and safety. Forced labour is a truly global problem, also present in developed countries where it affects mainly trafficked migrant workers. It affects men, women and also children who represent at least 40 per cent of all victims.

Labour exploitation can occur in many forms. But forced labour (to use a short comprehensive term) is something quite distinct. It occurs where work or service is exacted by the State or individuals who have the will and power to threaten workers with severe deprivations, such as withholding food or land or wages, physical violence or sexual abuse, restricting peoples' movements or locking them up.

While companies operating legally do not normally employ such practices, forced labour can become associated with enterprises through their business links with others, including contractors and suppliers. As a result, all managers should be

aware of the forms and causes of forced labour, as well as how it might occur in different industries.

Both the state and private agents have been implicated in the use of forced labour. State-imposed forced labour includes certain forms of compulsory participation in public works, and the imposition of forced labour for ideological or political purposes. Circumstances, such as when prisoners are linked to commercial activities without their free consent, are the object of serious debates.

Slavery, bonded labour or debt-bondage, and different forms of coercion in employment involve forced labour exploitation by private agents. Employers need to be aware that forced labour can be connected to different practices, such as those listed in the box below.

## How companies can contribute to the elimination of forced labour

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Understanding the causes of forced labour is the first step towards taking action against it. The following table can help companies identify forced labour in practice.

Identifying forced labour in practice		
<b>Lack of consent to work (the "route into" forced labour)</b>	<b>AND</b>	<b>Menace of a penalty (the means of keeping someone in forced labour)</b>
<ul style="list-style-type: none"> <li>• Birth/descent into "slave" or bonded status</li> <li>• Physical abduction or kidnapping</li> <li>• Sale of person into the ownership of another</li> <li>• Physical confinement in the work location – in prison or in private detention</li> <li>• Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for non-compliance</li> <li>• Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.)</li> <li>• Deception or false promises about types and terms of work</li> <li>• Withholding and non-payment of wages</li> <li>• Retention of identity documents or other valuable personal possessions</li> </ul>		<ul style="list-style-type: none"> <li>• Physical violence against worker or family or close associates</li> <li>• Sexual violence</li> <li>• Imprisonment or other physical confinement</li> <li>• Financial penalties</li> <li>• Denunciation to authorities (police, immigration, etc.) and deportation</li> <li>• Exclusion from future employment</li> <li>• Exclusion from community and social life</li> <li>• Removal of rights or privileges</li> <li>• Deprivation of food, shelter or other necessities</li> <li>• Shift to worst working conditions</li> <li>• Loss of social status</li> </ul>

Forced labour is for the most part rooted in poverty, inequality, and discrimination. However, in some parts of the world, it derives from political factors. For users of this reference guide, most likely, the abuse will be indirect through business relationships such as suppliers and their sub-contractors and will require the exercise of due diligence in managing these relationships.

Taking action to eradicate forced labour requires a comprehensive set of interventions to address not only the needs of individual forced labourers but also the needs of their families. When forced labour is identified, these individuals should be removed and facilities and services should be provided to enable them to have adequate alternatives.

In general, a combination of workplace and community actions is needed to help ensure the eradication of forced labour practices.

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| <b>In the workplace:</b>             | <ul style="list-style-type: none"> <li>– Adhere to forced labour provisions of national laws and regulations, and where national law is insufficient, take account of international standards.</li> </ul>   |
|                                      | <ul style="list-style-type: none"> <li>– Within company operations and dealings with other businesses, ensure that employment contracts are provided to all employees stating the terms and conditions of service, the voluntary nature of employment, the freedom to leave (including the appropriate procedures) and any penalties that may be associated with a departure or cessation of work.</li> </ul> |
|                                      | <ul style="list-style-type: none"> <li>– Institute policies and procedures to prohibit the requirement that workers lodge financial deposits with the company.</li> </ul>   |
|                                      | <ul style="list-style-type: none"> <li>– Encourage managers to review box 4 and take action as appropriate.</li> </ul>  |
|                                      | <ul style="list-style-type: none"> <li>– If forced labour is found within your sphere of influence, provide for the removal of such workers from the workplace with adequate services. To the extent possible, assist workers access to viable alternatives.</li> </ul>   |
|                                      | <ul style="list-style-type: none"> <li>– Exercise due diligence in dealings with other businesses.</li> </ul>   |
| <b>In the community of operation</b> | <ul style="list-style-type: none"> <li>– Companies may also wish to contribute, where possible, to broader community efforts to eliminate forced labour and help workers freed from forced labour to find freely chosen work.</li> </ul>  |
|                                      | <ul style="list-style-type: none"> <li>– Work in partnership with other companies, sectoral associations and employers' organisations to develop an industry-wide approach to address the issue, and build bridges with stakeholders such as workers' organisations, law enforcement authorities, labour inspectorates and others.</li> </ul>   |
|                                      | <ul style="list-style-type: none"> <li>– Establish or participate in a task force or committee on forced labour in your representative employers' organisation at local, state or national level.</li> </ul>  |
|                                      | <ul style="list-style-type: none"> <li>– Support development of a National Action Plan against forced labour as part of key policy and institutional mechanisms to combat forced labour at national level.</li> </ul>   |
|                                      | <ul style="list-style-type: none"> <li>– Within your sphere of influence, participate in prevention and re-integration programmes for former victims of forced labour by</li> </ul>   |

providing skills development and job training opportunities.

- Where possible, participate in national and international programmes, including media campaigns, and co-ordinate with local and national authorities, workers' organisations and other stakeholders.

## Child labour

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ILO conventions (Minimum Age Convention No. 138 and the Worst Forms of Child Labour Convention No. 182) provide the framework for national law to prescribe a minimum age for admission to employment or work that must not be less than the age for completing compulsory schooling, and in any case not less than 15 years. Lower ages are permitted for transitional periods - generally in countries where economic and educational facilities are less well-developed the minimum age is 14 years and 12 years for 'light work'. On the other hand the minimum age for hazardous work is higher at 18 years for all countries.

Minimum Age for Admission to Employment or Work		
	Developed Countries	Developing countries
Regular Work	15 years	14 years
Hazardous Work	18 years	18 years
Light work	13 years	12 years

The term “child labour” should not be confused with “youth employment” or “student work”. Child labour is a form of exploitation that is a violation of a human right. It is recognized and defined by international instruments. It is the declared policy of the international community and of almost all governments to abolish child labour.

There are certain types of child labour, as categorised in ILO convention 182, which call for governments to take urgent and immediate action when undertaken by children under the age of 18 years. They are:

- all forms of slavery - this includes the trafficking of children, debt bondage, forced and compulsory labour, and the use of children in armed conflict;
- the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic purposes;
- the use, procuring or offering of a child for illicit activities, in particular the production and trafficking of drugs; and
- work which is likely to harm the health, safety or morals of the child as a consequence of its nature or the circumstances under which it is carried out.

Companies should make efforts to eliminate all forms of child labour. Efforts to eliminate the worst forms of child labour should not be used to justify other forms of child labour.

## Why companies should be concerned about child labour

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Child labour damages a child's physical, social, mental, psychological and spiritual development. Child labour deprives children of their childhood and their dignity. They are deprived of an education and may be separated from their families. Children who do not complete their basic education are likely to remain illiterate and never acquire the skills needed to get a job and contribute to the development of a modern economy. Consequently child labour results in under-skilled, unqualified workers and jeopardises future improvements of skills in the workforce.

Children enjoy human rights no less than adults. However, by virtue of their age and the very fact that they are still growing and gaining knowledge and experience, they have some distinct rights as children. These rights include protection from economic exploitation and work that may be dangerous to their health, safety or morals that hinder their development or impede their access to education. The complexity of the issue of child labour means that companies need to address the issue sensitively, and not take action which may force working children into more exploitative forms of work. Nevertheless, as Principle 5 states, the goal of all companies should be the abolition of child labour within their sphere of influence.

Association with child labour will likely damage a company's reputation. This is true in the case of transnational companies who have extensive supply and service chains, where the economic exploitation of children, even by a business partner, can damage a brand image and have strong repercussions on profit and stock value.

## What companies can do to uphold the effective abolition of child labour

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Child labour should be a concern for every company. It is a serious issue today in many developing countries; but it also exists less visibly in developed, industrialised countries where it occurs for example in some immigrant communities.

Developing an awareness and understanding of the causes and consequences of child labour is the first step that a company can take toward action against child labour. This means identifying the issues and determining whether or not child labour is a problem within the business. Companies sourcing in specific industry sectors with geographically distant supply chains need to be particularly vigilant. Part of conducting due diligence should include review of ILO and other research to be aware of sectors prone to child labour problems in areas where a company operates.

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**In the workplace:**

- Adhere to minimum age provisions of national labour laws and regulations and, where national law is insufficient, take

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account of international standards.

- Use adequate and verifiable mechanisms for age verification.
  - When children below the legal working age are found in the workplace, take measures to remove them from work.
  - To the extent possible, help the child removed from workplace and his/her family to access adequate services and viable alternatives
  - Exercise influence on subcontractors, suppliers and other business affiliates to combat child labour.
- In the community of operation**
- Companies may also wish to contribute, where possible, to broader community efforts to eliminate child labour and help children removed from work to find have access to quality education and social protection.
  - Work in partnership with other companies, sectoral associations and employers' organisations to develop an industry-wide approach to address the issue, and build bridges with stakeholders such as workers' organisations, law enforcement authorities, labour inspectorates and others.
  - Establish or participate in a task force or committee on child labour in your representative employers' organisation at local, state or national level.
  - Support development of a National Action Plan against child labour as part of key policy and institutional mechanisms to combat forced labour at national level.
  - Within your sphere of influence, participate in prevention and re-integration programmes for former child labourers by providing skills development and job training opportunities.
  - Where possible, participate in national and international programmes, including media campaigns, and co-ordinate with local and national authorities, workers' organisations and other stakeholders.

## Discrimination in respect of employment and occupation

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Discrimination in employment and occupation occurs when a potential candidate is treated differently or less favourably because of characteristics that are not related to his/her merit or the inherent requirements of the job. These characteristics commonly include in national law: race, colour, sex, religion, political opinion, national extraction or social origin. In addition some countries have extended protection to other areas to include sexual orientation and HIV and AIDS.

However, Principle 6 allows companies to consider additional grounds where discrimination in employment and occupation may arise. Companies should also familiarize themselves with grounds prohibited under national legislation.

Discrimination can arise in a variety of work-related activities. These include access to employment, particular occupations, promotions, and training and vocational guidance. Moreover, it can occur with respect to the terms and conditions of the employment, such as:

- recruitment,
- remuneration,
- hours of work and rest, paid holidays,
- maternity protection
- security of tenure
- job assignments
- performance assessment and advancement
- training opportunities
- job prospects
- social security, and
- occupational safety and health

In some countries additional issues for discrimination in the workplace, such as age and HIV status, are growing in importance. It is also important to realize that discrimination at work arises in a range of settings, and can be a problem in a rural agricultural business or in a high technology city-based business.

Discrimination can take many forms. It may be direct when, for example, laws or rules explicitly limit a person's access to employment. However, most discrimination is indirect and arises informally through attitudes and behaviour. Some forms of discrimination may even have cultural roots.

Non-discrimination simply means that employees are selected on the basis of their suitability to do the job and that there is no distinction, exclusion or preference made on other grounds. Employees who experience discrimination at work are denied opportunities and have their basic human rights infringed. This affects the individual concerned and negatively influences the greater contribution that they might make to society.

The workplace is a strategic entry point for freeing society from discrimination. Combating discrimination at the workplace can help reduce disadvantages, such as in education, resulting from inequity that people may have suffered at earlier stages in life. When the workplace brings together workers of different races, sexes and ages, for example, and treats them equally, it helps build a sense of common purpose. By doing so it defuses stereotypes and prejudices that are at the heart of discrimination.

Effective avenues are needed to permit meaningful challenges to discrimination when it occurs. ILO principles fix minimum thresholds. National laws and practices may well be broader and include more comprehensive approaches for the elimination of discrimination at work.

### What companies can do to eliminate discrimination in respect of employment and occupation

From a business point of view discrimination does not make sense. It leads to social tensions that are potentially disruptive to the business environment within the company and in society. A company that uses discriminatory practices in employment and occupation denies itself access to talents from a wider pool of skills and competencies. The hurt and resentment generated by discrimination will affect

the performance of individuals and teams in the company. Discriminatory practices result in missed opportunities for development of skills and infrastructure to strengthen competitiveness in the national and global economy. Finally discrimination can damage a company's reputation, potentially affecting profits and stock value.

First and foremost, companies need to respect all relevant local and national laws. Any company introducing measures to promote equality needs to be aware of the diversities of language, culture and family circumstances that may exist in the workforce. Managers and supervisory staff, in particular, should seek to develop an understanding of the different types of discrimination and how it can affect the workforce.

<b>In the workplace:</b>	<ul style="list-style-type: none"> <li>– Institute company policies and procedures which make qualifications, skill and experience the basis for the recruitment, placement, training and advancement of staff at all levels.</li> </ul>
	<ul style="list-style-type: none"> <li>– Assign responsibility for equal employment issues at a high level, issue clear company-wide policy and procedures to guide equal employment practices, and link advancement to desired performance in this area.</li> </ul>
	<ul style="list-style-type: none"> <li>– Provide staff training on non-discrimination policies and practices, including disability awareness. Reasonably adjust the physical environment to ensure health and safety for employees, customers and other visitors with disabilities</li> </ul>
	<ul style="list-style-type: none"> <li>– Work on a case by case basis to evaluate whether a distinction is an inherent requirement of a job, and avoid systematic applications of job requirements in a way that would systematically disadvantage certain groups. .</li> </ul>
	<ul style="list-style-type: none"> <li>– . Keep up-to-date records on recruitment, training and promotion that provide a transparent view of opportunities for employees and their progression within the. organization</li> </ul>
	<ul style="list-style-type: none"> <li>– Where discrimination is identified, develop grievance procedures to address complaints, handle appeals and provide recourse for employees. This and other action to avoid or remedy discrimination is particularly important in the context of negotiations and collective agreements</li> </ul>
	<ul style="list-style-type: none"> <li>– Be aware of formal structures and informal cultural issues that can prevent employees from raising concerns and grievances.</li> </ul>
	<ul style="list-style-type: none"> <li>– Establish programs to promote access to skills development training and to particular occupations.</li> </ul>
<b>In the community of operation:</b>	<ul style="list-style-type: none"> <li>– Encourage and support efforts to build a climate of tolerance and equal access to opportunities for occupational development such as adult education programs and health and childcare services.</li> <li>– In foreign operations, companies may need to accommodate cultural traditions and work with representatives of workers and governmental authorities to ensure equal access to employment by women and minorities.</li> </ul>