

# **ILR** New Conversations Project

## **Social Dialogue in the 21<sup>st</sup> Century** Listening Phase Summary

August 2019



SUSTAINABLE LABOR PRACTICES IN GLOBAL SUPPLY CHAINS

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## Introduction

This report summarizes the initial stages of the *Social Dialogue in the 21<sup>st</sup> Century* project, a collaboration between the *New Conversations Project* (NCP) at Cornell University's School of Industrial & Labor Relations (NCP) and the Strategic Partnership for Garment Supply Chain Transformation (SP) partners, Fair Wear Foundation, CNV Internationaal and Mondiaal FNV.

*Social Dialogue in the 21<sup>st</sup> Century* aims to develop a strategic action plan for developing effective industrial relations in global garment supply chains. By combining groundbreaking research with extensive stakeholder consultations, the project will build a root-cause analysis of barriers to impactful social dialogue, and develop concrete recommendations for overcoming those barriers in the global garment industry.

Overall Project Objectives:

- Identify and document the major barriers (current and future) to a healthy social dialogue in the global garment industry, and specifically in each country
- Identify root causes and possible interventions that can help overcome those barriers, in general, and specifically in each country
- Identify and analyze/evaluate new interventions including existing SP and other pilot projects with an eye to developing strategies that can be more widely applied

*Social Dialogue in the 21<sup>st</sup> Century* is constructed as a four-phase project. It consists of:

- A **listening phase**, designed to focus the project's research questions.
- A **preparatory phase**, which involves background research related to the project's questions.
- An **intensive discussion phase**, which convenes broader groups of stakeholders to tackle the research questions, informed by the research findings of the preparatory phase.
- A **reporting and experimentation phase**, to consolidate learnings, findings, recommendations and identify potential pilots or support for existing pilots
- A **conference phase** to publish reports and disseminate the outcomes.

This report summarizes the **listening phase**, which took place from May 2018 until March 2019. More information on plans for the other phases is provided at the end of this report.

## About the Listening Phase

The Listening Phase had a specific goal: **To collect insights and input from key stakeholders, in order to focus the research questions of the project, and to better structure activities for the preparatory phase.**

During the Listening Phase, work was undertaken to identify common understandings across the major stakeholder groups of the obstacles to effective and impactful social dialogue in the apparel and footwear industry. Coming out of this phase we have identified the research questions, or “focus obstacles,” to guide the remainder of this project. The sections below summarize these findings.

A significant amount of time and energy during the listening phase was spent engaging with major influential stakeholder individuals and organizations, explaining the project’s aims, and creating environments wherein they felt comfortable offering frank feedback.

Because social dialogue is always a negotiation *about* something, stakeholders are rarely in a position to reflect on social dialogue as a system for managing power relations. And it is clear that the status quo of social dialogue in the garment industry is not working. There need to be open and frank discussions of why the current state of affairs is not working, but these discussions need to be developed and constructed in a way that make clear that they are not an attack on any party, nor a negotiating tactic to weaken the other side in future negotiations.

In order for any findings that emerge from the *Social Dialogue in the 21<sup>st</sup> Century* project to be taken seriously by stakeholders, it needs to address questions posed by the stakeholders themselves.

Stakeholders bring to the table their own knowledge, experiences, and perspectives of the obstacles to any problem and situation. Historic conflict between stakeholders can often derail constructive dialogue about new solutions. NCP’s approach takes the blame for past failures off of the table to encourage exploration and new thinking. Fact-based analysis and research provides a grounding for the discussions.

The listening phase discussions, involving both one-on-one meetings and small group discussions, served not only to gather information, but also to build trust in NCP and the Strategic Partnership. It was also important to ensure that the individual organizations who the project engaged with are seen as legitimate by their stakeholder peers in labor, industry, and other fields. Chatham House rules<sup>1</sup> were, and will continue to be, employed throughout the process, to ensure that participants can speak freely and openly.

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<sup>1</sup> according to which information disclosed during a meeting may be reported by those present, but the source of that information may not be explicitly or implicitly identified.

## Summary of Listening Phase

The listening phase consisted of dozens of meetings and conversations with representatives of more than 40 garment and footwear industry stakeholder organizations. Participants included trade unions, CSOs/NGOs, and businesses, based in Europe, the United States, and six major garment-producing countries. The focus areas of these organizations ranged from global to national as well as regional within a specific country. Together, they represent a diverse range of views from organizations central to the garment industry.

Through small group and one-on-one discussions within each stakeholder 'silo' some common concerns about practices and structures within each silo and those of other stakeholders were identified. Some of these practices and structures need further research or review, while others offered the the potential of new approaches. While many stakeholders were involved with initiatives and pilots in new approaches to workers' rights, collective bargaining and social dialogue, their knowledge of the impact of any of these experiments was limited. And the data available on social dialogue in global supply chains was similarly, highly limited.

The findings below outline what lessons were learned from discussions with each of those stakeholder groups and include challenges in understanding other stakeholders, and the power map in which they operate.

Since Chatham House rules were followed during this Listening Phase, it enabled interviewees to speak frankly and explore obstacles to constructive and impactful social dialogue from all stakeholder perspectives. Therefore, we provide a brief of the discussions with each stakeholder group, without publishing a participant list. Provisions will be made for identifying participants as appropriate in future phases.

### Labor / Workers

#### **Key findings in the Listening Phase about trade unions and workers include:**

- Many people inside the labor movement are concerned that the multiplicity of funding streams and organizational approaches within the workers' rights movement tends to diffuse impact on the ground.
- A mapping of trade union stakeholders across the garment industry and their individual and collective impact would benefit trade unions across the industry.
- The need to identify obstacles to the ability of trade unions' to create capacity, develop synergistic strategies on behalf of workers, and to engage the other stakeholders at various levels of the global supply chains.
- There is need to improve the relationships between worker-centered NGOs, global, regional and local trade unions, and to ensure better coordination between their differing approaches.

## Brands and retailers

### Key findings in the Listening Phase about brands and retailers include:

- The complexities and lack of clarity of power structures within and across the supply chain are a major obstacle to impactful social dialogue
- The invisibility of brand decision making and supply chain structure, and their “distance” from garment workers has major consequences for working conditions
- Brands and retailers assert that legal constraints, specifically antitrust/competition and tort law, impact collaboration with each other on critical issues that directly impact workers, although the recent Indonesia protocol represents a slight improvement
- Wages and economic benefits are left to the “employer” – the factory or supplier – even though the buyers set the economics through their purchase orders. While some brands have adopted policies supporting a livable wage, and mechanisms for determining country-based wage standards have been piloted, implementing global, regional, or country-based standards remains an elusive goal.
- To mitigate against risk, brands often limit buying from factories to a small percentage of that factory’s overall production, resulting in lost opportunity to exert economic power over suppliers to enforce standards or comply with standards (low leverage). Suppliers also diversify risk and sell products to multiple brands in order to protect themselves from changes in customer tastes or the risk of a brand going bankrupt for example. This inhibits the development of long-term collaborative relationships that could improve compliance on many issues, including social dialogue.
- Lack of long-term commitment to sourcing by global buyers from specific countries undermines efforts to increase wages long-term, but short-term purchasing does enable brands to exert economic influence by reacting to supplying country governments’ lack of enforcement of standards and worker protections. Trade wars now raise additional risk questions for long-term investment in countries.
- Brands and retailers have limited understanding of trade unions in supplying countries, their status, affiliation to global labor organizations, and NGOs. The capacity of global NGOs to launch public campaigns and press reports independent of the local labor movement results in greater brand response to NGOs than to country-based unions. Public campaigns and media exposés targeting high-performing brands often result in brands launching new initiatives to address problems without the capacity or alignment to have scalable results.
- Worker empowerment vs. unionization is a tradeoff and needs to be examined for long-term results and impact. The institutional barriers to union organizing in many countries may be insurmountable, and providing workers voice to improve their conditions of employment is a key need. The effectiveness of NGOs vs. trade unions in motivating brands to take action has various pros and cons that need to be examined for long-term results and impact.
- Global investment strategies and incentives have significant, if indirect impacts on the behavior of brands and retailers, with knock-on effects further down the supply chain.

## Suppliers

### Key findings in the Listening Phase about suppliers include:

- Supplying to numerous brands from multiple countries with different compliance programs and codes challenges suppliers to lift the wage floor across factories.
- Suppliers' business models and wage setting mechanisms create a number of impediments to social dialogue.
- Changing and shifting orders and short-term purchasing relationships puts pressure on wages, and encourages first-tier factories to subcontract to lower cost suppliers or homeworkers.
- Lack of legal protections and enforcement protections for workers and the lack of transparency of buyers shields 'low-road' suppliers from detection.
- Open contracts are still seen as benefitting buyers and squeezing suppliers.
- Manufacturing associations are often aligned with the ruling political party and push back on freedom of association or collective bargaining

## Government

### Key findings in the Listening Phase by and about government include:

- Supplying country governments have little infrastructure for protection of Freedom of Association, workers' rights, safety and health, and the rule of law. And the density of unionization in most supplying country governments is low.
- There is little motivation or economic interest to support freedom of expression, organizing or movement building.
- The level of enforcement of labor provisions in trade agreements can impact the ability of trade unions to engage in effective social dialogue.
- Some CSR investors are attempting to influence standards, but the initiatives are small and competitive with other efforts.
- Buying countries' trade, environmental, and social policies often vary, challenging efforts to assert collective support for workers' rights.

## Multi-Stakeholder Initiatives

### Key findings in the Listening Phase by and about Multi-stakeholder Institutions include:

- Initiatives representing different brands, retailers, suppliers and other stakeholders (universities, labor, NGOs, social and community allies) each have their own codes of conduct, governance structures, standards for affiliation, and complaint/grievance mechanisms.
- MSIs are beginning to collaborate on broader issues, but this relatively limited. .
- Many MSIs struggle to engage brand members on issues relating to Freedom of Association and collective bargaining. MSI's are not yet able to require that their brand members emphasize Freedom of Association. The quality of their data on Freedom of Association is poor. A lack of a common methodology, and the difficulty of accurately assessing the FoA environment through current auditing practices contribute to the limited progress on FOA and also results in low quality or unreliable data.
- Brand knowledge of worker organization and exposure to trade unions at the global or enterprise level is limited.

## Key research areas identified during Listening Phase:

Based on the analysis of the above learnings from the conversations conducted during the listening phase the following four obstacles have been proposed as the focus of the project moving forward. These obstacles/research questions have significant implications for any/all stakeholders in the garment industry.

### **AREA 1:**

#### **Limited trade union, employer and brand capacity to engage in or support social dialogue**

The multiplicity of players at all levels, within and across silos, and their lack of knowledge of other stakeholders is an obstacle to social dialogue. Mapping the different players, their roles, and current capacity is important to supporting capacity building and developing new strategies so that they may fully engage in good faith social dialogue.

#### **Related Research Questions:**

- Who speaks for workers in different supplier country locations? Which union/ confederation/global union? Which unions are independent and have the capacity?
- How do worker-centered NGOs help or obstruct trade union campaigns and unionization?
- Do worker committees help or obstruct unionization and workers voices being heard?
- Who speaks for brands and retailers and suppliers and at what level can they make a decision and finalize an agreement? CSR staff, country representatives and sourcing departments play different roles.

### **AREA 2:**

#### **A lack of political will to engage in good faith social dialogue at all levels**

The economics of the supply chain are global, but workers are local. Brands and retailers control the economics (orders and price) which strongly influences suppliers' behavior and how workers are treated and paid thereby impacting social dialogue. Private regulation attempts to provide alternative forums for dialogue but this dialogue is ineffective if the power brokers are not at the table. Additionally, buyer control over price and lead times puts pressure on suppliers who then subcontract to smaller facilities or homeworkers. These secondary tiers are hidden by the lack of supply chain transparency and as such, workers are excluded from social dialogue processes. In other instances, tripartite institutions may be in place but governments act independently and without regard to social partners' agreements thereby chilling the social dialogue process.

#### **Relevant Research Questions:**

At what table or level and with which global stakeholders can wages be set and taken out of competition and end the global race to the bottom?

- How can workers in secondary tiers, and informal or homeworkers be represented and engaged in social dialogue processes?
- What is the role of government in facilitating or engaging in social dialogue and under what conditions do actors act in good faith?
- Is it the design or shortcomings of government institutions or simply the unwillingness to enforce existing laws that is the key problem in social dialogue?

### **AREA 3.**

## **Respect for the fundamental rights of freedom of association and collective bargaining is undermined**

Oftentimes, governments' desire for foreign investment and economic growth undermines support for freedom of association and collective bargaining rights. The lack of alignment of economic goals and support for rule of law, freedom of association, and democratic structures harms unions and inhibits social dialogue.

### **Relevant Research Questions:**

- What policies can be implemented to facilitate economic growth and respect for freedom of association and collective bargaining concurrently?
- In countries without established freedom of association rights, how can genuine worker representation be achieved?
- How effective have various freedom of association and collective bargaining initiatives (Freedom of Association Protocol in Indonesia, ACT, Multi-company CBAs) been?

### **AREA 4.**

## **Limited institutional support for the various stakeholders**

Institutional support takes on many forms: an enabling legal and political environment, strong and genuine unions, representative employer associations, trade agreements that hold parties accountable, as well as support from international organizations and local civil society organizations. These institutions each face their own unique challenges which often vary country-by-country. Common weaknesses are a lack of transparency and limited enforcement. Lack of transparency leads to duplicative initiatives and divergent priorities. Meanwhile, the lack of enforcement mechanisms of ILO, OECD, MNE and other global guidelines limit efforts to expand democracy and guarantee workers' rights as part of economic investment.

### **Relevant Research Questions:**

- How effective have ILO, USAID, and other programs designed to improve governance and regulatory capacity been in supplying countries? Specifically, regarding social dialogue capacity?
- How have effective have transnational labor enforcement mechanisms been (Bangladesh Accord, NAFTA)?
- What initiatives are in place to improve supply chain transparency and how effective have they been in general, and specifically related to social dialogue?

## Next Steps

The next step in the process are referred to as the Preparatory Phase. This phase involves research and preparation for the next set of stakeholder engagement activities.

### Research – Mapping Stakeholders and Initiatives

A network of researchers working on issues of workers' rights in the global supply chain are collaborating through this project to utilize data from a variety of sources, analyze projects and initiatives, and coordinate on strategic research questions in 10 countries of focus<sup>2</sup>. This will supplement the desk audit (see below) to guide strategic discussions within and across stakeholder groups. Research capacity, primarily based in the focus countries is being expanded and connected to a range of universities around the world.

### Desk Audit – What is Known

A desk audit allows the project to capture all the past and current work that is being done in the countries of focus around the obstacles identified in the listening phase. The desk audit allows the project to better focus new research on unanswered questions, to avoid duplication of existing work. The desk audit will consist of a country-by-country summary of academic research relevant to social dialogue obstacles and the project's research questions, as well a general comparative overview.

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<sup>2</sup> Vietnam, Cambodia, Bangladesh, Indonesia, Myanmar, Ethiopia, India, Mexico, Honduras, Bulgaria

## Future Phases

To briefly summarize the plans for the rest of the project:

Beginning Fall 2019, the Intensive Discussion phase will entail convening broader groups of stakeholders to address the four research areas. Following the model begun with the listening phase, convenings will be designed to encourage participants to step outside of their traditional constraints, and to propose new and innovative solutions that could help to overcome the identified obstacles to better social dialogue. These convenings will include information from the research and desk audit activities, to help ground the discussions in better evidence, will be conducted under Chatham House rules, and will engage with innovative communication and convening tools designed to facilitate discussions on complex and sensitive topics.

Given that most of the wealth and power of the garment industry is located with European- and US-based brands – and that brands' effects on social dialogue processes in their supply chains is largely underexplored – the convenings are designed to begin in the US and the EU, and then move to garment-producing countries in Asia and the Americas. The goal of this process is to help generate insights about the role of international business in local social dialogue systems that will be helpful in considerations of how these local systems may need to adapt to cope with globalization.

During mid-2020, the lessons of the Intensive Discussion phase will be consolidated, together with research, resulting in publications, pilot designs, and leading to a public release of the project's findings at a major conference planned for Southeast Asia in late 2020.

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## New Conversations Project

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<https://www.ilr.cornell.edu/new-conversations-project-sustainable-labor-practices-global-supply-chains>

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