



# Investor brief:

## What is social protection and why should it matter to investors?

This investor brief introduces a new initiative on social protection for textile and garment workers in the global supply chains of major brands and retailers. It explains what social protection is, how a new industrial relations model might help move towards better social protection and why this matters to both companies and investors.

### Investor and company responsibilities to respect human rights

According to the OECD Guidelines for Multinational Enterprises, institutional investors have a responsibility to use their influence with investee companies to prevent or mitigate negative human rights impacts.<sup>1</sup> Under both the OECD Guidelines and the UN Guiding Principles on Business and Human Rights, all enterprises, including institutional investors, must respect the human rights of their stakeholders and carry out human rights due diligence to identify, prevent, mitigate and address both potential and actual adverse impacts.<sup>2</sup>

In addition to normative reasons for upholding international human rights standards, several emerging national and regional laws mandating human rights due diligence focus specifically on the corporate responsibility to respect the rights of workers in company supply chains.<sup>3</sup> As so-called non-financial factors harden into law in numerous jurisdictions, the legal, financial and reputational risks linked to human rights violations are likely to rise for companies with

poor practices in this area, as well as for investors holding their shares.

### Pandemic fallout on workers...

Covid-19 underscored the vulnerability of millions of supply chain workers and the fragility of the business model of garment and textile brands. Reacting to plunging demand for garments and textiles during the pandemic, many brands cancelled orders or even refused to pay for finished goods,<sup>4</sup> forcing massive layoffs and deepening poverty among workers who are already often very poorly paid.



<sup>1</sup> OECD, Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises, 2017, <https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf>, p. 13.

<sup>2</sup> OECD, OECD Guidelines for Multinational Enterprises, 2011, <https://www.oecd.org/daf/inv/mne/48004323.pdf> and United Nations, UN Guiding Principles on Business and Human Rights, 2011, [https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf).

<sup>3</sup> For example, the French Duty of Vigilance Law, the German Supply Chain Act and the European Commission proposed Directive on corporate sustainability due diligence (see <https://corporatejustice.org/wp-content/uploads/2022/03/Corporate-due-diligence-laws-and-legislative-proposals-in-Eu-ropc-March-2022.pdf>)

<sup>4</sup> M. Anner, "Unpaid Billions", research brief, Penn State Center for Workers' Rights, 6 October 2020, [https://www.workersrights.org/wp-content/uploads/2020/10/Unpaid-Billions\\_October-6-2020.pdf](https://www.workersrights.org/wp-content/uploads/2020/10/Unpaid-Billions_October-6-2020.pdf)



## The human right to social protection

The right to social protection is [internationally recognized](#) and enshrined in international labour law.<sup>6</sup> It is also part of the UN Sustainable Development Goals (SDG), including SDG #1 on ending poverty, which calls for “nationally appropriate social protection systems and measures for all.”<sup>7</sup>

Social protection systems enable other rights, such as a decent standard of living, and social protection is increasingly acknowledged as essential to protecting workers in large-scale crises. International organizations like the International Trade Union Confederation (ITUC), the ILO and UNICEF have recognized the role of universal social protection in advancing societal goals such as [gender and racial equality](#) and eliminating child labour.<sup>8</sup>

In addition to being a human right, social protection is crucial to building societal resilience in the face of crises. This is recognized in the April 2020 [Call to Action](#) for the global garment industry, a joint statement by employer and worker organizations in response to Covid-19’s profound impact on garment workers’ lives. The Call to Action, welcomed by the ILO, underscores the need for robust social protection systems “for a more just and resilient garment industry”. And yet, according to the ITUC, “today less than half of the world’s population have access to any form of social protection”.<sup>9</sup>

One of the root causes of garment workers’ dire situation is that many producing countries have inadequate or non-existent social protection systems. According to the International Labour Organization (ILO), “social protection, or social security, is a **human right** and is defined as the set of policies and programmes designed to **reduce and prevent poverty** and vulnerability throughout the life cycle. Social protection includes child and family benefits, maternity protection, unemployment support, employment injury benefits, sickness benefits, health protection, old-age benefits, disability benefits and survivors’ benefits.”<sup>5</sup>

<sup>5</sup> ILO, 2017, “World Social Protection Report 2017-19: Universal social protection to achieve the Sustainable Development Goals”, pp. xxix. Geneva: ILO [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_604882.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf) (accessed 17 Feb 2022) (emphasis added)

<sup>6</sup> For example, ILO Convention 102 on Social Security, ILO Convention 168 on Employment Promotion and Protection against Unemployment and ILO Recommendation 202 on Social Protection Floors.

<sup>7</sup> <https://sdgs.un.org/goals/goal1>

<sup>8</sup> ILO and UNICEF have emphasized the need for universal social protection to reverse a new surge in child labour linked to Covid-19; Mayen Jaymalin, “Worldwide Child Labor Increases to 160 million”, The Philippine Star, 11 Jun 2021, accessed 2 March 2022, <https://www.philstar.com/headlines/2021/06/11/2104594/worldwide-child-labor-increases-160-million>

<sup>9</sup> ITUC, ITUC Campaign Brief—A global social protection fund is possible, 2020, cited in Jason Judd, Sarosh Kuruville and J. Lowell Jackson, “Security for Apparel Workers: Alternative Models”, NCP Working Paper No. 3, April 2022, Cornell University, p. 3, <https://www.ilr.cornell.edu/sites/default/files-d8/2022-05/NCP%20IndustriALL%20Severance%20042222.pdf>



Recent research commissioned by IndustriALL Global Union and carried out by Cornell University found that, while all top garment exporting countries have laws requiring some form of severance pay, “there are major gaps between the laws and their implementation”.<sup>10</sup> Even in countries with legislation requiring severance – which, in the absence of other unemployment benefits, is a basic form of social protection for laid-off workers – these measures are often not enforced.

Although voluntary corporate codes of conduct frequently require suppliers to pay severance in accordance with local law, “the private regulation model does not guarantee it.”<sup>11</sup> The result of these shortcomings has been widespread wage theft during Covid-19,<sup>12</sup> leaving trade unions and civil society organizations to chase after brands to ensure workers in their supply chains receive payment. In addition to threatening the livelihoods and well-being of millions of workers, order cancellations and payment delays have led to protests by workers<sup>13</sup> and high-profile campaigns by labour and civil society organizations shaming the companies for their behaviour and demanding they pay workers their due.<sup>14</sup>

**This is not a sustainable system or business model, and it does not serve workers or companies well. The operational, financial and reputational risks inherent in the model should also be a concern for investors. Now, in the wake of the pandemic, is an opportune time to explore alternative ways forward.**

### **...and a new model**

For years, IndustriALL, UNI Global Union and their allies have worked to establish a new model of supply chain industrial relations, one based on binding agreements – not voluntary initiatives – holding brands accountable for their impact on workers. The [Bangladesh Accord on Fire and Building Safety](#), and its recent successor, the [International Accord for Health and Safety in the Garment and Textile Industry](#), are successful examples of such agreements. Building on the Bangladesh Accord, the International Accord imposes legally binding obligations on signatory brands and retailers (for example in terms of funding and dispute resolution). Its governance structure brings together global brands, local manufacturers, international and national trade unions. The Accord has significantly increased safety for workers in Bangladeshi apparel factories covered by the agreement.<sup>15</sup>

<sup>10</sup> Judd et al, “Security...”, p. 7.

<sup>11</sup> Ibid., p. 15.

<sup>12</sup> See, for example, Worker Rights Consortium, “Fired then robbed: Fashion brands’ complicity in wage theft during Covid-19”, April 2021, <https://www.workersrights.org/wp-content/uploads/2021/04/Fired-Then-Robbed.pdf>; M. Anner, “Abandoned? The impact of Covid-19 on workers and businesses at the bottom of global garment supply chains”, Penn State Center for Global Workers’ Rights, 27 March 2020; Clean Clothes Campaign, “Breaking point: Wage theft, violence and excessive workloads are pushing garment workers to breaking point during the pandemic”, June 2021; and Business & Human Rights Resource Centre, “Wage theft and pandemic profits”, March 2021.

<sup>13</sup> See, for example, <https://www.vice.com/en/article/akzkvp/international-fashion-houses-are-leaving-millions-of-asians-jobless-now-the-workers-are-protesting>

<sup>14</sup> See <https://www.industrialunion.org/global-action-to-support-the-garment-industry>; <https://www.payyourworkers.org/>; and <https://www.publiceye.ch/en/topics/fashion/covid-19-wage-theft-debunking-excuses-from-fashion-brands>

<sup>15</sup> See, for example, Sarah Newell and Christie Miedema, “A history of negligence: How Gap and other major brands failed to draw lessons from the That’s It Sportswear factory fire”, Business & Human Rights Resource Centre, 14 December 2021, <https://www.business-humanrights.org/en/blog/a-history-of-negligence-how-gap-and-other-major-brands-failed-to-draw-lessons-from-the-thats-it-sportswear-factory-fire/>



Many investors have been supportive of the Accord over the years. In a public statement in April 2021, over 180 institutional investors representing over US\$4 TN in assets under management recognized the Bangladesh Accord as a “proven model for effective supply chain management” and called for its expansion to other countries “as the global garment sector looks to ‘build back better.’”<sup>16</sup>

The investor statement explicitly pointed to the **binding nature** of the agreement as crucial to the model’s success in holding brands accountable. By helping address adverse impacts on garment workers in Bangladesh, the Accord “has given investors a sense of confidence that risks to brands sourcing there is [sic] being managed and mitigated.”

Another model, the International Bargaining Forum (IBF), is a sectoral framework of the maritime shipping industry for collective bargaining, involving the International Transport Workers’ Federation (ITF) and a consortium of ship owners and shipping management companies. This long-running and successful global collective bargaining system presents a potential model for a social protection fund for garment workers, bringing together several essential aspects, such as binding obligations on employers; a dispute resolution mechanism; provision of funding by lead firms for a worker welfare fund, union access to effect workplace inspections and a transnational scope.<sup>17</sup>

Elements of these and other models can be applied to other systemic problems in the supply chain.<sup>18</sup> Drawing on experience and the lessons learned from preceding models, IndustriALL is now looking for an alternative system for the

garment and textile sector, one that can address the dire lack of income security for workers in global apparel supply chains.



IndustriALL and its allies are advocating for a **global and enforceable collective bargaining agreement** between trade unions, buyers and suppliers on social protection – a social safety net that brands would be expected to contribute to as part of their responsibility to workers in their global supply chains. IndustriALL’s aim is to reach an agreement with brands on creating a **bridging fund for garment worker social protection until national social protection systems in garment exporting countries can be improved. This is part of a continuum: from the Bangladesh Accord, which addressed worker rights and safety in one country, to the International Accord, which aims to extend those gains beyond Bangladesh, to an initiative for universal social protection that will seek to implant deep-rooted and positive change for an entire sector.**

<sup>16</sup> Interfaith Center on Corporate Responsibility, “With Work Remaining and Covid19 Still Raging, Investors Caution Against Allowing the Bangladesh Accord for Fire and Building Safety to Expire”, 22 April 2021, <https://www.iccr.org/work-remaining-and-covid19-still-raging-investors-caution-against-allowing-bangladesh-accord-fire>

<sup>17</sup> Judd et al, “Security...”, p. 23.

<sup>18</sup> Ibid., Section 2.

## Why should companies care about social protection?

Social protection is part of the international human rights standards many multinational enterprises claim to adhere to, such as the [ILO Declaration of Principles Concerning Multinational Enterprises and Social Policy](#) (MNE Declaration) and the International Bill of Human Rights.<sup>19</sup> Although corporate codes of conduct commonly cover severance pay as part of wages and benefits – in alignment with brands' responsibilities for garment supply chain workers – social auditing data from apparel and footwear factories has shown “high levels of non-compliance with severance requirements.”<sup>20</sup>

On the opportunity side, the potential for brands to benefit is real: **through this new initiative on social protection, companies could pool resources to help address a systemic challenge that no single company can solve but which poses a risk to all companies in the sector.** Further, trade unions would provide expertise, assistance and accountability to the process. And as [mandatory human rights due diligence laws](#) continue to emerge, companies will increasingly be compelled to ensure respect for human rights throughout their supply chains. The initiative will make a crucial contribution to this mandate by building a garment worker welfare fund based on collective bargaining and aimed at strengthening national social protection systems.

## Why should investors care?

The Bangladesh Accord was born of a terrible tragedy: over 1,100 deaths in the collapse of a single factory complex. Another crisis, Covid-19, has pushed garment workers in multiple countries out of jobs and deeper into poverty. Both of these crises have revealed the unsustainability of global supply chains: the imbalance of power between brands and suppliers and between employers and workers; and the unfair distribution of risks that have allowed brands and retailers to profit even while workers have experienced extensive wage theft, precarious employment and lack of social safety nets. Companies will not agree on their own to change their business model or to take on more of the risks of outsourced production, but it should not take another crisis and massive suffering for them to do so.<sup>21</sup> This is where investors come in.

Institutional investors often hold diversified portfolios; as so-called universal owners, many of them are invested in

the entire market.<sup>22</sup> Affected as they are by sectoral and other systemic risks, such investors should share the Call to Action's goal of “a more just and resilient garment industry.”<sup>23</sup> Social protection is a societal issue: it helps prevent poverty and inequality, can act as a stabilizer and is key to a sustainable economy, decent work and formal employment. Investors increasingly understand that companies' practices and entire business models, such as those predicated on outsourcing, are not only associated with individual instances of human rights abuse but are exacerbating systemic problems such as inequality.<sup>24</sup>

Contributing to social protection, on the other hand, presents an opportunity for companies to address some of the negative impacts of supply chain outsourcing and should therefore be a demand of responsible investors. It is also in investors' interests that “their” companies' workforces, including indirect employees, are protected from crises, are paid fairly and are productive and stable. Fortunately, recognition of these facts is increasing among responsible investors. For example, in the face of Covid-19, hundreds of institutional investors have expressed concern about the lack of social safety nets and urged businesses to consider providing paid leave to all workers, including subcontractors.<sup>25</sup> These investors have recognized that the “long-term viability” of their companies is “inextricably tied to the welfare of their stakeholders”, including workers, and that widespread unemployment threatens not just workers but also “basic social stability and the financial markets”.<sup>26</sup>

**Social protection is a crucial part of making textile and garment supply chain production more equitable, and can also serve to mitigate risk for companies and investors. In the model envisaged, brands and retailers will have an essential role in contributing to social protection, and investors' leverage will be key to encouraging these companies to participate in the initiative. Building social protection for garment workers is a sector-wide, long-term goal. The onus will not be put on any single brand, government or investor; rather, the idea is for companies, investors, trade unions, governments, suppliers, civil society organizations and other stakeholders to join together, and through shared responsibility, achieve positive change in the global garment industry.**

<sup>19</sup> The MNE Declaration, for example, notes that “[m]ultinational and other enterprises could complement public social security systems and help to stimulate further their development”. Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the universal right to social security and social insurance.

<sup>20</sup> Judd et al, “Security...”, pp. 11 and 7.

<sup>21</sup> Judd et al, “Security...”, p. 21.

<sup>22</sup> PRI, “Macro Risks: Universal Ownership”, 12 Oct. 2017, <https://www.unpri.org/sustainable-development-goals/the-sdgs-are-an-unavoidable-consideration-for-universal-owners/306.article> (accessed 3 March 2022)

<sup>23</sup> See UN Working Group on Business and Human Rights, “Taking Stock of Investor Implementation of the UN Guiding Principles on Business and Human Rights”, A/HRC/47/39/Add. 2, Geneva, June 2021, p. 6: “In the case of large, passive asset managers, also known as ‘universal owners’, using leverage to promote public policy that tackles systemic risks to human rights is an especially crucial form of leverage.”

<sup>24</sup> See, for example, C. O'Connor-Willis, Making ESG Work, 2021, NYU Stern Center for Business and Human Rights.

<sup>25</sup> See ICCR, “Investor Statement on Coronavirus Response”, no date, <https://www.iccr.org/investor-statement-coronavirus-response> and investor engagement letter, “Re: Provision of paid sick leave for direct and indirect employees”, Jan 2022, available here [https://www.iccr.org/sites/default/files/blog\\_attachments/investor\\_engagement\\_letter\\_on\\_paid\\_sick\\_leave\\_-\\_final12600.pdf](https://www.iccr.org/sites/default/files/blog_attachments/investor_engagement_letter_on_paid_sick_leave_-_final12600.pdf)

<sup>26</sup> Ibid.



## Investor due diligence on social protection: First steps

In this first stage of the initiative, investors should consider how they might start to incorporate social protection into their engagement of companies in their portfolios. For example, investors with shares in international garment brands and retailers can ask them the following questions:

- Has the company signed the International Accord for Health and Safety in the Garment and Textile Industry?
- Can the company ensure that all orders placed during the pandemic have been paid for?
- If not, how did the company redirect orders?
- What actions has the company taken to mitigate the impact of Covid-19 on its suppliers?
- How has the company ensured that all wages and/or severance payments have been paid to all workers at its supplier companies?

IndustriALL will be organizing a series of webinars and meetings in the coming months to introduce the initiative to investors and develop the discussion around the role they can play. At a later stage, we will ask investors to bring their **leverage** to bear on companies that are unwilling to participate in this collective effort that aims to address violations of supply chain workers' rights and to change the global garment industry for the better.

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