

Rana Plaza Three Years On: Compensation, Justice and Workers' Safety

Clean Clothes Campaign

International Office 

SUMMARY

1. Justice for the Rana Plaza Families

a) Payment for loss of income and medical care

The campaign for full and fair compensation for the families affected by the collapse of the Rana Plaza building on 24 April 2013 was launched immediately after the news hit the headlines.

As a result of this campaigning the Rana Plaza Arrangement was established, facilitated by the ILO. The Arrangement aimed to deliver loss of income payments, in line with ILO standards, and medical care to the Rana Plaza survivors, in a manner that was credible, transparent and fair. It would not provide for payments for pain and suffering.

USD 30 million was required to fund claims submitted from all the deceased, missing and injured workers. This was to come from three different sources: The Rana Plaza Donor Trust Fund, which was established to collect donations primarily from brands and retailers that had been using a Rana Plaza factory; the Prime Minister's Fund which collected donations primarily from within Bangladesh, including from the employers' organization Bangladesh Garment Manufacturers and Exporters Association (BGMEA) and garment workers themselves, and Primark, who insisted that workers from their supplier, New Wave Bottoms, should be paid through their own private scheme.

The Arrangement started processing claims in March 2014 and finished in September 2014. Claims were accepted for 720 deceased and 148 missing workers; in total 2,559 dependants of these workers were provided with awards resulting from these claims. The minimum amount awarded for claims for deceased, missing workers was set at 1,050,000 BDT (GBP 9,500/11,500 EURO). 207 claims were received from injured workers and each were provided with awards starting at a minimum of 105,000 BDT (GBP 950/1,200 EURO) for workers with minor or temporary injury, rising to a minimum of 1,050,000 BDT (GBP 9,500/11,500 EURO) for those with serious and life changing injury.

In total, the Rana Plaza Arrangement paid out BDT 1,421,273,046.31 (almost 13 million GBP/16 million EURO/USD 18.5 million), from the money collected by the Rana Plaza Donors Trust Fund. A further USD 2.5 million came from the Prime Minister's Fund, which had distributed payments in cash shortly after the disaster and prior to the establishment of the Arrangement; these were treated as advance payment towards the final awards. Primark paid USD 12.4 million on 209 deceased and 58 missing claims and 405 injured claims.

Arrangements for long term medical care for the most severely injured workers has also been agreed and is being carried out through a five year programme run by the Bangladesh NGO BRAC at a cost of USD 1 million. An agreement has been made to establish a Trust in Bangladesh, managed by representatives of the government, the industry and labour groups, to oversee ongoing provision of medical care to those suffering long term but less serious physical and psychological injury. The RPCC is currently in the process of establishing such a Trust in line with Bangladesh law and the conditions of the Rana Plaza Donors Trust Fund.

b) Legal action for compensation

The Bangladesh courts, acting on a request submitted as part of a Public Interest Litigation case, froze the assets of the Rana Plaza owners pending the outcome of an investigation into appropriate

pain and suffering and loss of income payments. A private legal case was also filed for damages on behalf of individuals affected by the collapse. Around the second anniversary of the disaster, two class action cases were filed against North American brands sourcing from Rana Plaza, one in Canada and one in the USA, also for damages and compensation. All of the legal cases are still in progress, and it is expected that they will continue for several years prior to reaching a conclusion.

Compensation was just one of the demands raised by the families impacted by Rana Plaza. The survivors also demand justice in the form of criminal prosecutions of Sohel Rana, the 5 factory owners, government inspectors who failed in their duty to uphold building regulations and other individuals whose failure to carry out their responsibilities to the Rana Plaza workers ultimately contributed to the tragedy.

Three criminal cases, two on behalf of the state and one on behalf of a dependant of a deceased worker, have been filed to the Bangladesh court. All of these cases involve the owner of Rana Plaza, Sohel Rana, who was arrested shortly after the building collapse and has remained in custody since then. A further 11 cases have been filed to the Labour Court for breaches of Bangladesh labour law. Public Interest Litigation is being considered by the Supreme Court.

Of the 41 individuals facing criminal charges only two, Sohel Rana and an inspector from Rajuk (Civil Development Agency), are held in custody. Of the remaining 39 at least half have yet to surrender to the court; this includes the Spanish owner of the Phantom Tac factory. The rest have been released on bail by the courts. None of the criminal cases and only three of the labour court cases have processed to the hearing of arguments and none are close to issuing verdicts.

2. Preventing future disasters

Three weeks after the collapse of Rana Plaza, and following a world-wide campaign which garnered over 1 million signatures, H&M became the first brand to sign the Bangladesh Accord for Fire and Building Safety. In the days afterwards they were joined by tens of other retailers, who no longer felt able to refuse. The Accord is a legally binding agreement, signed between almost 200 brands and retailers, two global unions and their Bangladeshi affiliates. It obliges the signatory brands to ensure that the factories which supply them are inspected regularly by engineers qualified in structural, fire and building safety and to make the repairs necessary to bring them in line with international building standards and the national building code. The Accord also allows for unprecedented transparency over its work, enabling workers, consumers, activists and anyone else with an interest to be able monitor its progress in details and works to establish and train Occupational Safety and Health Committees in Accord listed factories.

From the outset it was clear that the implementation of such an ambitious programme from scratch, and under unprecedented media interest and public scrutiny, would not be easy. The inspections started late in 2013, with all the initially listed factories inspected by September 2014. Following each inspection, reports were shared with the factory owner, the brands sourcing from the factory and, where a union was registered, with the workers. The factory was then expected to produce a Corrective Action Plan (CAP), which would elaborate the needed repairs. Thus far 1453 factories have produced and published agreed upon CAPs. 93 factories have still not finalised CAPs that meet Accord standards.

The inspections carried out since late 2013 have identified a total of 108,538 risks to worker safety. The Chief Inspector designated every single inspected factory as “high risk”, with the majority of them needing extensive repairs. In 32 factories the structural weaknesses constituted such a potential direct risk to life, that they were referred to a Review Panel to decide on the need for evacuation or temporary suspension of production.

Overall, the pace of repairs has been much slower than anticipated. Three years after Rana Plaza only 7 factories have corrected all the hazards that were identified in the original 2014 inspections; just 1 of these has also completed the new repairs required after additional defects were uncovered in follow up inspections. 57 factories have not completed repairs but are on track; meaning they are still within the Accord-mandated deadlines. The remaining 1338 factories are behind schedule in getting some or all of their repairs done.

While in the early stages of the Accord these delays could often be attributed to lack of available local expertise or the need to import specialist materials, these issues have largely been overcome. The causes of delay are now more likely a lack of political will or problems with financing of what can be extremely expensive repairs.

Detailed information relating to the measures taken by brands and retailers to ensure their suppliers can cover the cost of repairs, either through direct payments, facilitation of loans or changes in production commitments and price, are not made public. This makes it difficult to get a true sense of to what extent the lack of funding is a genuine barrier. As of March 2016, 1311 CAPs indicated that a finance plan had been drawn up, but the majority of these are self-financing. Only in 37 cases have signatory brands reported that some form of assistance has been provided to their supplier to assist with the costs of remediation. Lack of funds is regularly cited as a problem by the Bangladesh Garment Manufacturers and Exporters Association

In order to increase pressure on factories to speed up remediation, the Accord has implemented an escalation process, putting on notice the worst performers. Under this process each factory has to demonstrate meaningful efforts to key repairs done, working on a mandated schedule to do so. Failure to demonstrate adequate progress can ultimately lead to termination from the Accord programme. To date, this happened to 22 factories, which means that no signatory brand is permitted to source from this or associated factories

The Accord also aims to train workers on building safety issues and to establish Occupational Safety and Health Committees. To date 50 factories, all of which are unionised, have been enrolled on the OSH Committee programme and 125 OSH Committee member trainings have been carried out.

3. Organizing and the right to refuse unsafe work

A major cause of the high death toll at Rana Plaza was the fact that workers did not have the ability to collectively refuse to return to a building they clearly knew was unsafe. Freedom of Association, although recognised by Bangladesh law, is restricted through both legal and administrative barriers. Unsurprisingly, none of the 5 factories in the Rana Plaza building had a registered union that could have voiced their safety concerns collectively and which ultimately could have prevented such a high death toll.

Recognizing that Freedom of Association is pivotal in ensuring workers' safety, many organizations and governments urged the Bangladesh government to reform the country's restrictive labour laws. Initially, the signs were promising. Some positive reforms were made in a July 2013 amendment of the Bangladesh Labour Law, although the reforms still fell well short of international standards. The publishing of the implementing rules of the Bangladesh Labour Act, which would clarify the amendments, was however considerably delayed. When the rules were finally published, they largely failed to ensure full respect for Freedom of Association and in some cases arguably created new restrictions and impediments. In particular the rules relating to the establishment of worker participation committees are a concern, as they carry the danger of allowing employers to influence the selection of worker representatives. This might make it possible to create employer controlled

committees and impede the development of an independent, democratic trade union in the factory.

The pressure on the Bangladesh government following Rana Plaza did initially appear to have an impact on the ability of workplace trade unions to officially register. This registration is important as it confers certain rights and protection onto that union that, in theory at least, allow it to play a representative role on behalf of its members. The figure of over 300 new unions established since the collapse has been widely touted by the government as proof of an increased respect for Freedom of Association.

However, this trend is now being reversed and the rejection of trade union applications dramatically increased in the last year, with 73% of submitted union applications being rejected in 2015, often on apparently arbitrary grounds. The lack of transparent rules and guidelines for the assessing of union applications leaves room for undue influence over the process by employers who have considerable local power. The labour rules announced in 2015 actually worsened this situation by increasing the barriers placed on trade unions and awarded even more discretion to labour department officials to decide on registration. Without reforms to this system, the registration process will remain extremely susceptible to undue influence and pressure from the side of management, thereby acting as a considerable barrier to the ability of workers to organise.

Even more worrying is the fact that over a third of the 300 new unions have already been forced out of existence through a combination of union busting and factory closures and relocations (many of which may also have been done with an anti-union agenda). Even where unions have not yet been busted, it remains unclear to what extent they are being allowed to effectively operate. This perpetuates a situation where workers feel unable to raise concerns about workplace safety or any other issues, let alone to take collective action to refuse unsafe work.

Conclusion

There have been some considerable victories for those who demanded improvements to worker safety in Bangladesh following the Rana Plaza collapse. For example, there is no doubt that the work of the Arrangement has both created a replicable model that has and can be used in other cases. It has also created both an interest in and political support for the creation of a publicly run national workplace injury scheme in a context where public sector programmes are rarely promoted as a solution. The undertaking of thousands of inspections combined with the compulsion to comply with their findings is also ground-breaking in a country where building safety standards were rarely applied or enforced.

Yet, as the attention generated by the disaster wanes, and along with it the scrutiny that forced many of the original commitments for change, there is a danger that progress will not only stall but might even be reversed. It is difficult to identify any changes that have led to fundamental changes in the way the industry operates, or increased respect for the lives and well-being of workers themselves. Fundamental rights, including those of workers to organise democratically and speak out against exploitation remain to be widely violated.

We also don't see brands and retailers engaged in similar activities outside of Bangladesh; all continue to use the same inadequate and ineffective audit systems that so drastically failed to prevent Rana Plaza in countries such as Pakistan, India, China, Myanmar and a host of other countries where poor enforcement of standards means a high risk of workplace disasters.

While the victories can and should be celebrated, the fight to make sure that no more workers die in death-trap factories, both in Bangladesh and elsewhere, still has a long way to go.