

# Clean Clothes Campaign



## Five years since the Rana Plaza collapse What has happened in the field of prevention and remedy?

On 24 April 2013, the world watched in astonishment and shame as the horror of the Rana Plaza building collapse was broadcast across the world's media. This was where the race to the bottom had led the garment industry: factories housed in unsafe buildings and workers afraid to enter a workplace with visible cracks in the walls, but even more afraid to lose their wages if they refused.

The Rana Plaza collapse was a moment in which all pledged to do better and to start respecting the lives of the women and men working long hours for low pay to make our clothes.

Five years on, we take stock. This memo aims to give an overview of the promises made in 2013, and what has – and has not – changed following the world's worst ever garment factory disaster. It also serves as a guide to the excellent pieces of research that have become available at this moment of retrospection for labour rights in the garment industry.



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## Introduction

The collapse of the Rana Plaza building on 24 April 2013, sent shock-waves through an industry which, despite over two decades of “corporate responsibility”, had come to rely on the exploitation of cheap and vulnerable workers in its pursuit of a fast fashion model based on low cost, high pressure production. Nowhere were these waves more intense than in Bangladesh, where the industry had not only survived changes in trading rules, but had flourished by providing the cheap-at-any-cost production the multinational buyers demanded.

In the immediate aftermath, when the eyes of the world were on Bangladesh, promises were made by the industry, government and the international community that change would be quick and fundamental: something like Rana Plaza would never be allowed to happen again and workers’ rights would become more than just a paper commitment. In the first two years it seemed that such promises were more than just lip-service paid to reassure a shocked public. Within a year of the disaster there had been a revision of the Labour Act, and the minimum wage was increased from 3,000 BDT to 5,300 BDT (currently about 51 euro). Labour unions used their newfound space to start organising and the number of registered unions jumped. The Bangladesh Accord on Fire and Building Safety was signed by the majority of major brands sourcing from Bangladesh and – as a result – garment factories were subject to credible and meaningful inspections for the first time ever.

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Yet such action could only truly amount to fundamental change if firstly they applied to the whole industry, and not just Bangladesh, and if secondly they were sustained over time. Five years on, although improvements have undoubtedly been made to fire and building safety in Bangladesh, this success has not led to the development of similar initiatives elsewhere, and the initial gains in labour law, trade union rights and wage have not only stagnated but are now being eroded.



Woman working in Ashulia. December 2016 - Sk Hasan Ali/Shutterstock

In Bangladesh, wages have not been increased since 2013, and their value has significantly dropped by inflation. The government is expected to review the minimum wages this year,<sup>1</sup> but after such a long wait a significantly sizeable increase is needed if workers are finally to be paid more than a poverty wage. Bangladeshi unions are calling for a tripling of the current wage to 16,000 BDT (156 euro). Even if agreed, this figure still falls below most living wage estimates for Bangladesh.<sup>2</sup>

Similarly, the space that opened for worker organising in the immediate aftermath of the Rana Plaza collapse has been rapidly closing; it seems that worker activism is not to be tolerated, particularly when focused on fighting for higher pay. The repression of trade union leaders and labour activists increased sharply in December 2016, after workers spontaneously walked out of their factories to call for a tripling of wages; this led to a strong crackdown and a protracted

<sup>1</sup> <https://wageindicator.org/documents/publicationslist/publications-2016/van-klaveren-m-2016-wages-in-context-in-the-garment-industry-in-asia-amsterdam-wageindicator-foundation-april-28-2016>, page 19; and <https://www.hrw.org/news/2013/07/15/bangladesh-amended-labor-law-falls-short>.

<sup>2</sup> <http://www.industrialunion.org/bangladesh-garment-workers-call-for-increased-minimum-wage>. For living wage estimates see: <https://asia.floorwage.org/what>, and <https://wageindicator.org/main/salary/wages-in-context>.

period of labour repression.<sup>3</sup> These actions had a chilling effect on worker organising, and the number of registered unions – and attempts to register unions – declined dramatically. This year, as the process to revise the minimum wage gets underway, any labour activism in support of the call for higher wages is being harshly repressed.<sup>4</sup>

Anti-union violence remains common, and is carried out with impunity. This month, one individual was found guilty for the torture and murder of labour activist Aminul Islam, almost exactly six years to the date of his abduction and murder. The verdict, based on scant evidence and against a man who disappeared immediately after the killing, has been rejected by Aminul's colleagues and international supporters because of its failure to consider evidence of the links between the killing and Bangladesh security forces and failed to demand a more thorough investigation into the co-conspirators of the accused.<sup>5</sup>

**International labour rights groups have now called for the European Commission to use its prerogative to launch a trade investigation into Bangladesh**

The repression of labour activism through threats and criminal charges has been accompanied by an almost total stalling of the labour law reform process that was initiated in the months following Rana Plaza, despite the fact that commitments to bring Bangladesh labour law into line with international standards were embedded into an 2013 agreement between the European Commission and the Bangladesh government known as the Sustainability Compact. In light of this, international labour rights groups have now called for the European Commission to use its prerogative to launch a trade investigation into Bangladesh, during which Bangladesh would be provided with clear deadlines for the implementation of its obligations.<sup>6</sup>

The quickly stalled progress in the field of wages and freedom of association are indicative of how the governments, brands and factory owners that control the industry have largely failed to address the structural causes of the disaster; evidence shows that these root causes are in fact worsening. For example, recent academic research suggested that the purchasing practices of major retailers, whose demands for cheap and fast have long been recognised as a driver of poor working conditions, are getting worse, with prices paid to suppliers declining and lead times shortened.<sup>7</sup> This 'price squeeze' not only contributes to continued poverty wages, but also fosters other workers' rights violations, including union busting.

**Rana Plaza turned out to be only a short-lived wake up call for the industry**

There is some good news however: it is generally agreed that there is one area where progress has been significant and maintained, albeit limited to Bangladesh, and that is in the improvements to fire and building safety<sup>8</sup> - it is to this topic that we will now turn.

<sup>3</sup> <https://cleanclothes.org/resources/publications/update-bangladesh-foa-april-2017/view>.

<sup>4</sup> <https://cleanclothes.org/news/2018/04/07/clean-clothes-campaign-calls-for-immediate-release-of-bangladesh-trade-unionists-held-on-false-charges>

<sup>5</sup> [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_617065.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_617065.pdf);  
<https://www.thedailystar.net/frontpage/1-sentenced-death-killing-aminul-1560094>

<sup>6</sup> <https://cleanclothes.org/resources/publications/the-european-union-and-the-bangladesh-garment-industry-the-failure-of-the-sustainability-compact/view>

<sup>7</sup> Mark Anner, "Binding Power: The Sourcing Squeeze, Worker' Rights, and Building Safety in Bangladesh Since Rana Plaza" (2018): <http://lser.la.psu.edu/gwr/documents/CGWR2017ResearchReportBindingPower.pdf>.

<sup>8</sup> Anner, "Binding Power", 15: <http://lser.la.psu.edu/gwr/documents/CGWR2017ResearchReportBindingPower.pdf>



## PREVENTIVE SAFETY: THE BANGLADESH ACCORD

### Making factories safe: The Bangladesh Accord on Fire and Building Safety

In the years before Rana Plaza, fires and collapses had cost hundreds of lives, with the Tazreen fire of 2012 (112 killed) and the Spectrum collapse of 2005 (64 killed) as two of the most well-known examples. Recurrent attempts to address the known lack of safety in the Bangladeshi garment industry had faced considerable resistance from brands, who were unwilling to address the underlying barriers to improving safety in a systematic way. Within three weeks of the collapse a group of brands, together with the Global Union Federations IndustriALL and UNI and eight Bangladeshi unions launched the Bangladesh Accord on Fire and Building Safety. Over the course of that year more and more brands were persuaded to join – some more willingly than others. Currently there are over 220 corporate signatories and over 1,600 factories are covered by the programme.

**Sadly, only the 1,134 deaths of the Rana Plaza collapse were able to convince a sufficient number of brands to finally start addressing this problem structurally and cooperatively.**

The ground-breaking nature of the Accord lies in more than sheer numbers. Most importantly, it is a binding agreement that contains extensive enforcement and arbitration provisions and sets a standard in transparency that in 2013 was revolutionary. Key to its success is its enforcement system, which contains an escalation procedure for factories that fail to comply, and an arbitration process under which signatories can force compliance with the agreement. In the last year, two arbitration cases have been settled, one of which for 2.3 million USD.<sup>9</sup>

### Accord or Alliance?

THE ACCORD ON FIRE AND BUILDING SAFETY IN BANGLADESH AND THE ALLIANCE FOR BANGLADESH WORKER SAFETY WERE BOTH ESTABLISHED IN 2013 TO PREVENT INCIDENTS SUCH AS THE RANA PLAZA BUILDING COLLAPSE

#### WHAT ARE THE DIFFERENCES?

THE ACCORD	SCOPE	THE ALLIANCE
The Accord has signatories all over the world.		The Alliance is a project of North American brands only.
Global and local union Federations sit on the decision making body.		The Alliance is a corporate scheme without worker involvement.
The Accord publishes all progress reports on the website.		The Alliance only states if remediation is "on track".
The Accord trains safety committees at factories and handles complaints.		The Alliance runs a third party helpline for workers to get advice and report.
The Accord is legally binding. Arbitration against non-compliant corporations can be started by worker representatives.		Workers have no way to enforce the agreements of the Alliance and corporations can leave the Alliance at any time.

For more information see: <https://cleanclothes.org/safety/accord> and <https://cleanclothes.org/resources/publications/dangerous-delays-on-worker-safety>

While most apparel companies joined the binding and transparent Accord, a small group of mainly North American companies, keen to maintain a fully corporate-controlled and non-accountable approach to social responsibility, chose to set up their own programme: the Alliance for Bangladesh Worker Safety. This programme differs in many crucial aspects from the Accord, including the absence of union participation in its governance, a lack of transparency and a total absence of external enforcement. Research, based on cross checking the limited amount of information made available by the Alliance with the information provided by the Accord, showed that factory reports produced by the Alliance were out of date and were considerably overstating the level of progress made. The Alliance continues to provide only limited and selective information, casting doubt over the credibility of their claims to have an extremely high completion rate for factory renovations.<sup>10</sup>

There is no doubt that the drive to increase building safety standards in Bangladesh has been challenging. Nevertheless considerable progress has been made. Most factories covered by the Bangladesh Accord have now completed over 90% of the renovations required following both the initial and follow up inspections, however only a small number have actually completed all of them. This is perhaps unsurprising: as the Accord rightfully acknowledges, ensuring safety is a continuous process that does not end

<sup>9</sup> <http://www.industrialunion.org/settlement-reached-with-global-fashion-brand-in-bangladesh-accord-arbitration> and <http://www.industrialunion.org/global-unions-reach-us23-million-bangladesh-accord-settlement-with-multinational-brand>

<sup>10</sup> <http://www.bangladeshworkersafety.org/progress-impact/alliance-statistics>

when the last renovation is done.<sup>11</sup> It honours this principle through follow up inspections, but also through its extensive worker training programme and complaint mechanism, which aims to empower workers to effectively monitor and demand that safety standards are maintained in their workplaces.

### **How the Accord works: some examples**

*'The most dramatic illustration of [the Accord's] work', according to Mark Anner, 'has been the temporary evacuation of 50 factories in which the structural integrity of these buildings fell below the acceptable level of safety'. One of such factories was Libas Textiles Ltd. Upon inspection, its second building was judged structurally unsafe and evacuated. Workers did not return until the building was renovated and inspected and judged safe by Accord monitors. In the rest of the factory complex over 70 fire, electrical and structural safety hazards were discovered. Despite the high amount and seriousness of these hazards, the factory would become the 25th Accord factory to be fully remediated.*

*While regular inspections are one way of uncovering safety hazards and other irregularities, the complaint mechanism is another one. Over the last five years, the Accord has received and successfully handled cases of safety risks reported by workers, such as blocked fire exits, but also other cases such as dismissals because of pregnancy or union busting.*

*The willingness to evacuate and the complaint mechanism together have the power to prevent a new Rana Plaza. While the Rana Plaza workers were unorganized and had no way to collectively enforce their right to refuse unsafe work or anyone to appeal other than the authorities and the factory owners, under the Accord workers are empowered to use their voice to raise concerns and refuse to put themselves in jeopardy. In April 2017 for example, construction work was going on next door to the Ananta Apparels factory, undermining the structural integrity of the building. Workers saw cracks appear and a pillar that was broken. They reported these to the Accord, which immediately evacuated the building. The Accord inspected the building before it was allowed to reopen, making sure that workers did not return before repairs were fully done. Five days later workers could return to their workplace without fear of collapse.*

Read more: <http://bangladeshaccord.org/safety-complaints-mechanism/>  
<http://accord.fairfactories.org/ffcweb/Web/ManageSuppliers/InspectionReportsEnglish.aspx>

### **Continuing the work**

Although the current Accord ends in May 2018, in many ways its work is not done: many factories are behind schedule in completing the renovations and the work of the Accord needs to continue to ensure that they do. The need to continue the work however primarily results not from a lack of progress, but rather from a need to protect the hard won successes of the programme. Even where renovations have been completed, safety standards need to be maintained and, without continued vigilance, factory owners could easily return to practices of the past, such as saving space by placing boxes of finished product in places that should serve as emergency routes or overloading unsuitable floors with heavy sewing machinery.<sup>12</sup> This is particularly the case in an industry which competes primarily on price and in a country where the government is not yet able or willing to take that role. A proposal for a follow-up to the five year programme of the initial Bangladesh Accord was agreed upon in June 2017 and its signatory list is steadily growing, and already contains over 140 brands.

**Even where renovations have been completed, safety standards need to be maintained**

<sup>11</sup> <http://bangladeshaccord.org/progress/> and <http://bangladeshaccord.org/remediated-factories/>

<sup>12</sup> <https://www.business-humanrights.org/en/why-all-companies-sourcing-apparel-from-bangladesh-should-join-the-2018-accord>

At this moment there is no credible alternative to the Accord. Brands and retailers which do not sign will have no alternative but to return to the same costly, inefficient and ineffective corporate auditing programmes that failed to prevent Rana Plaza. If the company continues to source from Bangladesh they will also be considered by their competitors as free riders that undermine the power created by a shared approach.

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The impact the Accord has had on building safety in just five years is unprecedented. It has proven that using a sector-wide approach, where brands can pool their resources and where there is a framework in place to enable them to work constructively with trade unions and labour rights organizations, is effective in both identifying and addressing previously intractable issues. If brands and retailers are serious in their commitment to a different industry post Rana Plaza, they should not only be signing the 2018 Accord, they should be attempting to apply its approach to other countries and issues.



All staff meeting – Bangladesh Accord

The 2018 Accord is no exact duplicate of its predecessor. Its training programme will be considerably expanded, covering all factories and including freedom of association protections in relation to workers' ability to stand up for their own safety. Most notably, the 2018 Accord offers the option for signatories to voluntarily add their home textiles and fabric and knit accessories suppliers to the Accord programme, which enables companies that sell textiles, but not garments, to also sign up. This provision could extend the benefits of a credible and binding inspection programme and workplace training programmes to thousands of workers that are still working in potentially unsafe factories.

The 2018 Accord is also different in that one of its aims is to facilitate the transition to a public regulatory regime in Bangladesh; for this reason it is also known as the "transition" Accord. Immediately after Rana Plaza, the Bangladesh government signed a National Action Plan on Fire Safety and Structural Integrity (NAP) in Bangladesh, in cooperation with the International Labour Organization (ILO). This has run alongside the Accord and the Alliance and was largely responsible for those factories that fell outside of those initiatives. Although it had similar goals to the Accord, it did not have the same amount of transparency, (financial) commitment by apparel companies or comparable remediation rates.

The Transition Accord aims to bridge the gap between the expiration of the Accord and the time at which the NAP's successor, the Remediation Coordination Cell (RCC), is able to function



smoothly to rigorous standards. To date it is unclear if this will be achieved within the three year period of transition, but the extent of the gap between the two will be reviewed biannually.<sup>13</sup>

It should be noted however that the transfer of the Accord's work to a public, national based scheme, does not mean that all the responsibility for maintaining safety standards will be transferred with it. Both factories and apparel companies will continue to be responsible for checking that the standards are being upheld, and ensuring that workers employed in their supply chain are guaranteed the right to safe work. As such it would seem in their interest to ensure the 2018 Accord is a success.

**Joining the 2018 Accord is the only credible way for companies to meet their due diligence obligations regarding the safety of the workers that stitch their clothes in Bangladesh. That means that companies that were part of the first Accord must recommit to the 2018 Accord and companies that were part of the Alliance for Bangladeshi Worker Safety or never joined any safety programme should join the 2018 Accord.**

**The new possibility to expand to related industries should be used by existing signatories and be an incentive for companies producing non-garment textiles to also sign the 2018 Accord and bring the factories in their supply chain under the purview of the Accord.<sup>14</sup>**

### Reading material

The Report "**Binding Power: The Sourcing Squeeze, Worker' Rights, and Building Safety in Bangladesh Since Rana Plaza**" (2018) by Mark Anner (Center for Global Workers' Rights, Penn State) gives an excellent and comprehensive overview of the Accord's governance, inspection programme, its ground-breaking transparency, the work on safety committees and the complaint mechanism, its arbitration system and the follow up offered under the 2018 Accord.

<http://lser.la.psu.edu/gwr/documents/CGWR2017ResearchReportBindingPower.pdf>

## COMPENSATION: THE NEED FOR EMPLOYMENT INJURY INSURANCE

### Employment injury insurance: what is it and why does it matter

Despite meaningful efforts to make factories safe, accidents do and will continue to happen. It is estimated that world-wide 2.8 million workers died in 2016-17 as a result of work-related disease and injury.<sup>15</sup> When a worker is injured or killed at work, families are faced with a sudden loss of a vital source of income. This is particularly the case where workers are employed in very low wage industries such as the garment industry. On top of the pain and suffering caused by the injury or death itself, and the cost of any resulting medical or burial costs, families have to face the stress of increasing debt and a sudden drop in standard of living.

**The right to loss of income payments and medical care following a workplace injury has long been internationally recognised.**

<sup>13</sup> <http://www.thedailystar.net/opinion/perspective/why-the-accord-will-be-here-until-2021-149114>; For the rigorous standards see: <http://bangladeshaccord.org/about/FAQs/>

<sup>14</sup> Sign on information is available here: <http://bangladeshaccord.org/wp-content/uploads/2018-Accord-sign-on-info.pdf>

<sup>15</sup> <http://www.icohweb.org/site/images/news/pdf/Report%20Global%20Estimates%20of%20Occupational%20Accidents%20and%20Work-related%20Illnesses%202017%20rev1.pdf>

In recognition of the impact that this can have on working families, the right to loss of income payments and medical care following a workplace injury has long been internationally recognized. ILO Convention 121, sets out the standards for provision of comprehensive employment injury insurance, which should be delivered by the state to any worker injured at work, and which should provide a lifetime pension to a worker or his or her family. Bangladesh has still not ratified the convention. Indeed, despite being the second largest exporter of clothing, and the location of some of the worst factory disasters in recent times, Bangladesh is among the few countries in the world that entirely fail to provide for a national employment injury scheme for workers who are injured in private workplaces.<sup>16</sup>

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Instead, Bangladeshi employers are held directly liable for the payment of compensation to an injured worker; with the burden placed on the individual worker to submit a claim, prove liability and enforce payment. In the garment industry, where many of the most hazardous workplaces are small and informal, many employers may simply not have the means to pay. Even when the employer is able to pay, in a context where unions are weak, legal enforcement is non-existent and workers have little bargaining power, families are often unable to demand the compensation they are entitled to, even when injuries are life-changing or fatal. When the Rana Plaza building collapsed, this meant that thousands of families had no idea if they would ever receive loss of income payments when their loved ones were killed or injured.

The ILO reports that at least 490 Bangladeshi supply chain workers have been injured in unsafe factories and at least 30 have been killed since Rana Plaza; a review of local media reports suggests that the real figure might be higher.<sup>17</sup> None of these families have been provided with compensation commensurate with that ultimately paid to the victims of Rana Plaza or Tazreen.

### **Taking stock of the Rana Plaza and Tazreen agreements**

Given the lack of a national process for delivering loss of income payments in Bangladesh, the first priority after the Rana Plaza collapse was to establish a mechanism for calculating, funding and distributing loss of income payments and medical treatment to the injured workers and the families of the killed workers. The scale of the Rana Plaza disaster and the public attention it received made it suddenly possible to develop a multi-stakeholder programme, that was credible, accountable and predictable; prior to this such payments had been much more ad hoc, and few workers ever received amounts that met international standards.

By now the vast majority of those affected by Rana Plaza - and by the previous disaster at Tazreen Fashions - have been provided with loss of income payments. Long-term physical and psychological treatment for workers injured



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<sup>16</sup> ILO, "World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals", p. 55, 60; [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_604882.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf)

<sup>17</sup> The ILO reports 491 injuries and 27 lives lost in garment industry incidents since Rana Plaza: ILO, "World Social Protection Report 2017–19", p. 64: [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_604882.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf); An own analysis of local media reports yields slightly higher numbers.



in both factory incidents, is being provided by the Trust for Injured Workers' Medical Care including Rana Plaza workers (the "TIWMC"), established in September 2016 and operational since February 2017.<sup>18</sup> It is funded by payments from the Rana Plaza and Tazreen Trust Funds and provides direct treatment and free health care through other medical institutions to Trust beneficiaries.

Although the Rana Plaza and Tazreen Arrangements were ultimately successful, both in delivering loss of income payments and in establishing a precedent in Bangladesh for post-disaster payments to victims based on international standards, they do not represent a long-term alternative for a permanent, state-based scheme. A recent review of the two schemes noted a number of challenges in using *post facto*, temporary processes to fill the gap left by a lack of statutory employment injury insurance - in particular the uncertainty around if and when payments will be made to families, who are already struggling with grief, trauma and hardship.<sup>19</sup>

The Rana Plaza and Tazreen Arrangements were not won easily. It took massive international attention, the establishment of a complex but temporary programme to calculate and deliver payments, a two year campaign to get the money and the unwavering dedication of national

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and international organizations and individuals to make sure that families received the bare minimum they were entitled to. This two to three year battle for funds caused unnecessary and painful delays for families. For many, the need to wait so long meant both physical and mental injuries were left to worsen, while families fell even further into debt and poverty, eroding the value of the final payments they received.

The situation is even worse for families of those killed and injured after April 2013: The families of seven workers who died at the Aswad textile mill only six months after the Rana Plaza disaster, the 21 workers injured in the Pakiza Textile Ltd fire last year and the families of the 13 workers that were killed in the Multifabs Ltd boiler explosion in the same year are unsure whether they will ever receive loss of income payments. What all these incidents have in common is that the numbers killed and injured were small in comparison to the Rana Plaza and Tazreen disasters, and have been ignored by brands and the public at large, because they did not have the spectacular scale that is needed for any such incidents to register as newsworthy. There can be no doubt that, in particular for the families involved, these deaths were no less of a tragedy: their rights to receive employment injury payments should not be dependent on the impact of the incident on the reputation of the brands involved. Yet, even if sufficient pressure is brought to bear on brands, the cost and complexity of schemes such as the Rana Plaza Arrangement, means that developing numerous individual *post facto* schemes for each and every factory injury or death would be completely impractical.



<sup>18</sup> The TIWMC is governed by a board of Trustees, chaired by Mr Md. Shahjahan Miah, Joint Secretary, Ministry of Labour and Employment, and including further representatives from the Ministry of Labour and Employment, the Ministry of Health and Family Welfare, Bangladesh Employers Organisations (BEF and BGMEA) and Bangladesh labour organisations (BILS and BTUC). The Clean Clothes Campaign is also a member of the board.

<sup>19</sup> Prentice, "Workers' Rights to Compensation", 26:

[https://d2bkwed3dzgijf.cloudfront.net/live/media/filer\\_public/97/94/979408ff-f1d6-405c-af39-5eb3e42e9cd5/compensation\\_report-web-version.pdf](https://d2bkwed3dzgijf.cloudfront.net/live/media/filer_public/97/94/979408ff-f1d6-405c-af39-5eb3e42e9cd5/compensation_report-web-version.pdf)

### **The case for an employment injury insurance and a bridging solution**

At a time of great distress and trauma, families should have certainty over what is going to happen, and their pain should not be drawn out through years of having to fight for the compensation they are entitled to. Nor is it sustainable or possible to set up a new scheme from scratch every time a worker is killed or injured. The establishment of an employment injury insurance scheme in Bangladesh is the only way to ensure that the rights of victims of employment injury are protected and that their families receive the compensation they are entitled to.

**At a time of great distress and trauma, families should have certainty over what is going to happen**

The only way that all workers in Bangladesh's garment industry could be guaranteed straightforward and equitable loss of income payments is through the establishment of a rights-based and permanent national employment injury insurance scheme, which would make the use of unnecessarily complex and long-winded *post facto* arrangements a thing of the past.

A national employment injury insurance scheme shares liability and costs among employers, frees the worker from the need to prove the "fault" of the employer and can be accessed easily by individuals who do not have the power or resources to demand and enforce payment through negotiation or the courts. National insurance schemes also have the permanence and institutional basis required to provide life-long pensions to families, while employer liability and *post facto* schemes are usually delivered through lump sum payments or finite pensions.<sup>20</sup>



When the Rana Plaza Arrangement was signed in 2013, it was never intended that it would become the way in which all loss of income payments would be delivered. In fact, one of its core aims was to develop standards and processes upon which a more permanent system for employment injury insurance could be developed. In 2015, the Bangladesh Government committed to establishing a National Employment Injury Insurance Scheme, based on the principles of Convention 121 and agreed to cooperate with the ILO to establish such a system by 2020.<sup>21</sup> However, since then there has

been little evidence of any intention on the part of the government to translate this commitment into a practical reality. There is still significant work to do if Bangladesh is to develop the necessary institutional and legal mechanisms required to meet this time-frame.

If action is not taken soon then the post Rana Plaza efforts to establish principles of an employment injury scheme, and to develop the institutional capacity for doing so will be undermined. At the same time, hundreds of workers injured since Rana Plaza are being deprived of their right to compensation payments. Clean Clothes Campaign is therefore calling for a "bridging solution", which will establish a procedure for accepting and processing existing and future workplace injury claims in line with international standards, delivering loss of

<sup>20</sup> ILO, "World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals", pp. 56-57, 60-62, 64: [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_604882.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf)

<sup>21</sup> ILO, "World Social Protection Report 2017–19", p. 60, 62-64, [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_604882.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf)

income payments to those already suffering and acting as a practical stepping stone in the process of developing a permanent employment injury scheme.<sup>22</sup>

**A national employment injury insurance scheme is the only sustainable way to ensure workers are compensated for loss of income if and when future incidents occur. While the Rana Plaza and Tazreen arrangements were successful in distributing compensation to the affected families, the process was unnecessarily long and painful and such arrangements are not practicable for processing the claims from victims of the many small-scale factory incidents in the Bangladeshi garment industry.**

**In order to ensure that workers already affected by workplace injury since the Rana Plaza collapse do not fall between the cracks and to speed up the work towards a national system, a bridging solution based on international standards should now be established, which will provide a stepping stone to a more permanent system.**

### **Reading material**

The recent report **"Workers' Right to Compensation after Garment Factory Disasters: Making Rights a Reality"** (2018) by Rebecca Prentice (University of Sussex), provides an analysis of the Rana Plaza, Tazreen and Ali Enterprises compensation schemes as well as useful recommendations towards *post facto* compensation schemes and a national employment injury insurance.

The **"World Social Protection Report 2017–19: Universal social protection to achieve the Sustainable Development Goals"** (2017) by the International Labour Office contains an excellent section about the need for national employment injury insurance systems (p. 56-65), highlighting the situation in Bangladesh as specific example.

Clean Clothes Campaign created the paper **Employment Injury Insurance in Bangladesh: Bridging the Gap** (2018) to make the case for a swift application of such a system and a bridging solution.

[https://d2bkwed3dzgijf.cloudfront.net/live/media/filer\\_public/97/94/979408ff-f1d6-405c-af39-5eb3e42e9cd5/compensation\\_report-web-version.pdf](https://d2bkwed3dzgijf.cloudfront.net/live/media/filer_public/97/94/979408ff-f1d6-405c-af39-5eb3e42e9cd5/compensation_report-web-version.pdf), and [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_604882.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf) and <https://cleanclothes.org/resources/publications/employment-injury-insurance-in-bangladesh-bridging-the-gap/view> (available from 24 April 2018)

### **Conclusion**

In April 2013, the Rana Plaza collapse was declared to be a wake-up call for an industry that had been pursuing profit at all cost; five years later it is clear that – on the whole - this hasn't been the case. Although laudable and demonstrable progress has been made in the field of building safety, this has been limited to one country and continued progress faces resistance. If the gains made through the Accord and the Rana Plaza and Tazreen Arrangements are to be maintained and built upon, continued pressure needs to be applied to ensure universal participation in the 2018 Bangladesh Accord and the setting up of an employment injury insurance and bridging solution. The model of legally binding, enforceable agreements between brands and trade unions – which has been proven to be the most effective out of hundreds of costly initiatives to deal with intractable problems such as building safety – needs to be expanded to cover other countries and issues.

Overall, there has been some movement, triggered by post Rana Plaza pressure and the work of the Accord, on some long standing demands of labour rights activists and consumers: for example the increasing number of brands which are improving supply chain transparency helps to link factories to companies at the top of the supply chain. An increasing number of high

<sup>22</sup> ILO, "World Social Protection Report 2017–19", p. 64, [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_604882.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf); Prentice, "Workers' Right to Compensation", p. 7: [https://d2bkwed3dzgijf.cloudfront.net/live/media/filer\\_public/97/94/979408ff-f1d6-405c-af39-5eb3e42e9cd5/compensation\\_report-web-version.pdf](https://d2bkwed3dzgijf.cloudfront.net/live/media/filer_public/97/94/979408ff-f1d6-405c-af39-5eb3e42e9cd5/compensation_report-web-version.pdf)



street retailers have signed or approach the minimum standard for supply chain transparency provided by the Transparency Pledge.<sup>23</sup> Ultimately full and standardized transparency can only be reached through binding regulation, which is needed to mainstream the broad uptake of the transparency pledge by leading companies.

In fact, if nothing else, Rana Plaza shows that voluntary, corporate-controlled “social responsibility” initiatives do not work. The continuous downward pressure on price and lead times – despite the consensus that exactly these practices push working

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conditions down – shows that for those profiting from the current system Rana Plaza was not the game changer it was hoped to be. The success of the Accord shows that the only way forward is the development of binding agreement and legislative measures, that force brands and retailers, employers and governments to take the measures required to guarantee a garment industry that can provide its workers with a dignified and sustainable livelihood.

One place to start would be the European Union, which is the world's largest consumer bloc, and its legislation generally influences business practices world-wide. The EU has a mandate and obligation to protect human rights and it has indicated an interest to contribute to combating human rights violations in the garment industry.<sup>24</sup> The EU would need to adopt regulation that will create a common standard for all businesses selling garments in the EU, whatever country they operate in. This is not unprecedented; the EU already regulates timber and conflict minerals, and in some EU countries, such as France, the UK and the Netherlands legislation is in force or underway. Also, eight national parliaments have expressed an interest in mandatory due diligence.<sup>25</sup> In a motion in April 2017, the European Parliament advocated the development of “a common framework through legislation on mandatory transnational due diligence, remediation for victims and supply chain transparency and traceability”.<sup>26</sup> Unfortunately, the European Commission has not yet acted upon this call.

Such measures are also supported by business. Several garments companies have expressed their interest in clear rules that apply to everybody. They argue that businesses are reaching their limits in what they can achieve by themselves in a voluntary framework, if facing competitors who are not taking similar steps. It is therefore no surprise that many businesses support mandatory initiatives.<sup>27</sup> These legislative initiatives and proposals on national and European level are important steps in the right direction, but should, because of the global nature of the garment industry, eventually be complemented with an international binding treaty to bring meaningful improvements to the labour situation in global supply chains.<sup>28</sup>

Over a thousand workers died at Rana Plaza, because their lives were not valued in the system they were employed in. An industry that allows so many lives to be lost, and yet continues on as before, can only be changed by enforceable regulation at national and international level. We owe it to the memory of those lives lost at Rana Plaza and elsewhere to keep up the pressure needed to turn empty promises into a concrete reality.

<sup>23</sup> “Follow the Thread. The Need for Supply Chain Transparency in the Garment and Footwear Industry”, <https://cleanclothes.org/resources/publications/follow-the-thread-the-need-for-supply-chain-transparency-in-the-garment-and-footwear-industry/view>.

<sup>24</sup> After the Rana Plaza collapse the European Commission announced a EU-wide flagship initiative on responsible management of the garment industry.

<sup>25</sup> <http://corporatejustice.org/news/422-human-rights-business-enhancing-corporate-responsibility-through-mandatory-human-rights-due-diligence>

<sup>26</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2017-0080+0+DOC+XML+V0//EN#title1>, also see: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2017-0330+0+DOC+PDF+V0//EN>.

<sup>27</sup> This includes big well-known brands such as Nestle, Heineken and ASOS, which supported legislation on slavery and child labour due diligence in the Netherlands, also the transparency provisions in the UK Modern Slavery Act were a direct result of action by companies.

<sup>28</sup> <https://cleanclothes.org/resources/publications/position-paper-on-human-rights-due-diligence/view>.