

Accountability for the **Ali Enterprises Factory Fire**



Suddenly a big cloud of smoke started filling the floor. The supervisor switched off the power and then there was a complete blackout.

Survivor Mehmood, 58 years old, machine operator who worked at Ali Enterprises for 5 years

Factory Ali Enterprises in Karachi, Pakistan. Courtesy: Ayesha Mir (The Express Tribune)

Fighting for justice in the textile industry's global supply chains

As soon as Muhammad Jabir heard about the fire at the Ali Enterprises factory on 11 September 2012 in Karachi, he rushed there to look for his son, a machine operator. He was too late. His son, along with almost 260 others, was dead. After the first months of grieving, he worked with others to found the Ali Enterprises Factory Fire Affectees Association (AEFFAA), supported by the Pakistani National Trade Union Federation. Within a year, more than 200 survivors and relatives of deceased workers started speaking out for their rights, for adequate compensation, and for long-term structural changes in the global supply chains of the textile industry.

Like the Ali Enterprises factory fire, a similar incident in the Tazreen textile factory in Bangladesh (November 2012) killed over 100

workers. The collapse of the Rana Plaza complex building in Dhaka, Bangladesh (April 2013) buried more than 1,100 workers. These incidents were particularly drastic examples of the inhumane working conditions in the global textile industry. These man-made disasters brought into sharp relief the fact that goods produced for consumption in the global north come at a price – a price many workers in the global south pay with their health and sometimes their lives. Ali Enterprises, Tazreen and Rana Plaza attracted worldwide attention and prompted calls for safer workplaces in the global textile industry.

Even more importantly: survivors and relatives started actively seeking for justice and accountability. The struggle of the Ali Enterprises Factory Fire Affectees Association (AEFFAA) and



Factory Ali Enterprises in Karachi, Pakistan. Courtesy: Ayesha Mir (The Express Tribune)

their allies is testament to the need for proper legal remedies, both in the production states as well as in the countries from where the goods are ordered. In Pakistan, lawyers represented victims in the ongoing criminal proceedings against the factory owners and along with affectees brought a public interest litigation petition demanding proper investigation into the responsibility borne by the relevant state authorities and private actors. The search for accountability was not limited, though, to Pakistan. It was global: in Germany and Italy, the affectees sought answers to the question of what responsibility is borne by buyers and social auditors.

CLAIM AGAINST BUYER KIK IN GERMANY – A LANDMARK CASE FOR SUPPLY CHAIN LIABILITY

The only major buyer of the clothes produced at the Ali Enterprises factory, German retailer KiK Textilien und Nonfood GmbH, agreed to pay one million USD as a short-term relief, and to

negotiate longer-term compensation through the Pakistan Institute of Labour Education & Research. The negotiations dragged on and only gained momentum when in 2013 the European Center for Constitutional and Human Rights (ECCHR) filed an amicus brief at the High Court of Sindh laying out the responsibility of KiK for the fire safety measures. Finally, the AEFFAA rejected an offer by KiK. Instead, they decided to file a lawsuit against KiK in Dortmund, Germany, in March 2015 arguing that adequate reparations for the victims is not a matter of charity, but of legal liability. The first hearing in the case will be held in November 2018.

COMPENSATION FACILITATED BY THE INTERNATIONAL LABOR ORGANISATION – A HISTORIC AGREEMENT

In August 2016, the German court accepted jurisdiction and granted legal aid to the Pakistani claimants. Shortly after this significant decision – in separate negotiations, at the request of both the German and Pakistani governments – KiK committed to pay 5.15 million USD to those affected. The agreement signed in September 2016 was the result of talks between KiK and IndustriALL Global Union and the Clean Clothes Campaign, facilitated by the International Labour Organization (ILO). This agreement followed the precedent of the Rana Plaza Compensation Arrangements. Notwithstanding this victory, the proceedings in Germany continued. The Pakistani claimants are still seeking accountability beyond voluntary giving.

On the day of the fire, I escaped by jumping from the mezzanine floor. It was about 30-40 feet high. I fell in the bushes. Other people were jumping from the same window.

Survivor Shahzad Ali had worked at Ali Enterprises for 4 years. His entire leg was fractured in the fall.

Fire extinguishers were only installed on the days that auditors would visit.

Aleem Ahmed, born 1957, worked for 5 years at Ali Enterprises

ITALIAN AUDITOR ISSUED CERTIFICATE TO ALI ENTERPRISES FACTORY – INVESTIGATIONS NEEDED

Just a few weeks before the factory fire, in August 2012, the Italian company RINA Services S.p.A. issued an SA8000 certificate to Ali Enterprises. The SA8000 is supposed to guarantee safety and socially acceptable practices at workplace. The certificate followed a social audit conducted by a RINA subcontractor in Pakistan. In 2014 the AEFFAA, represented by Italian lawyers, submitted a report on the role of RINA to the Italian state prosecutor who opened criminal investigations. The last judicial hearing of the case took place in September 2018.

FUNDAMENTAL OVERHAUL OF THE AUDITING SYSTEM – OECD COMPLAINTS AS A SOFT LAW TOOL

Marking the sixth anniversary of the factory fire, an international coalition of seven human rights, labor and consumer organizations together with the AEFFAA filed a complaint against RINA to the National Contact Point at the Ministry for Economic Development in Rome. The complainants argue that the company violated the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development (OECD) by undertaking negligent audits, failing to detect the gravest fire hazards.

INSUFFICIENT ACCESS TO REMEDY, A LACK OF GLOBAL ACCOUNTABILITY – A LONG WAY TO GO

The AEFFAA have brought their claims and perspectives to UN fora as well to courts and soft-law platforms in Germany and Italy. They are determined to show that relying on the goodwill of companies for compensation after factory disasters is not enough and that there can be no accountability process without an active role of those affected. However, these remedy processes have been slow and insufficient. In Germany, the claimants struggle e.g. with the lack of a collective claim mechanism. In Italy the criminal proceedings are extremely slow. The Pakistani public interest litigation took years without concrete results, while the criminal case against the factory owners was dropped. And yet, the case has become an important focus for discussions in political circles, with legal scholars, and among concerned consumers. It has been called a game changer for accountability in global supply chains.

RECOMMENDATIONS

- Governments and companies need to improve access to remedies for victims of Ali Enterprises and other human rights violations.
- Companies and social auditors should make all social auditing reports public.
- Governments should adopt laws requiring companies to do human rights due diligence.
- Governments should make companies liable for human rights violations in their supply chain.
- Governments should make auditors liable, to ensure that there are consequences when an audit fails to identify risks and/or violations.



Survivors and affected family members ask for justice for the workers and families affected by the factory fire at Ali Enterprises. © NTUF/AEFFAA. © ECCHR

Recommendations for further reading:

- Terwindt, Carolijn/ Sheldon Leader, Anil Yilmaz-Vastardis and Jane Wright, Supply Chain Liability: Pushing the Boundaries of the Common Law?, *Journal of European Tort Law*, Volume 8, Issue 3. 2018.
- Terwindt, Carolijn/ Miriam Saage-Maaß, *Liability of Social Auditors in the Textile Industry* in: Friedrich-Ebert-Stiftung (ed.) "Global Policy and Development", Berlin, December 2016.
- Saage-Maaß, Miriam / Philipp Wesche, *Holding companies liable for human rights abused related to foreign subsidiaries and suppliers before German civil courts: Lessons from Jabir and others v KiK*, in: *Human Rights Law Review*, 2015.
- Prentice, Rebecca, *Workers' Right to Compensation after Garment Factory Disasters: Making Rights a Reality*, University of Sussex, February 2018, <http://sro.sussex.ac.uk/74288/1/Compensation%20Report%20Prentice%20FINAL%202018.pdf>.
- Clean Clothes Campaign/Centre for Research on Multinational Corporations SOMO, *Fatal Fashion. Analysis of recent factory fires in Pakistan and Bangladesh: a call to protect and respect garment workers' lives*, March 2013, <https://cleanclothes.org/resources/publications/fatal-fashion.pdf/view>.



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