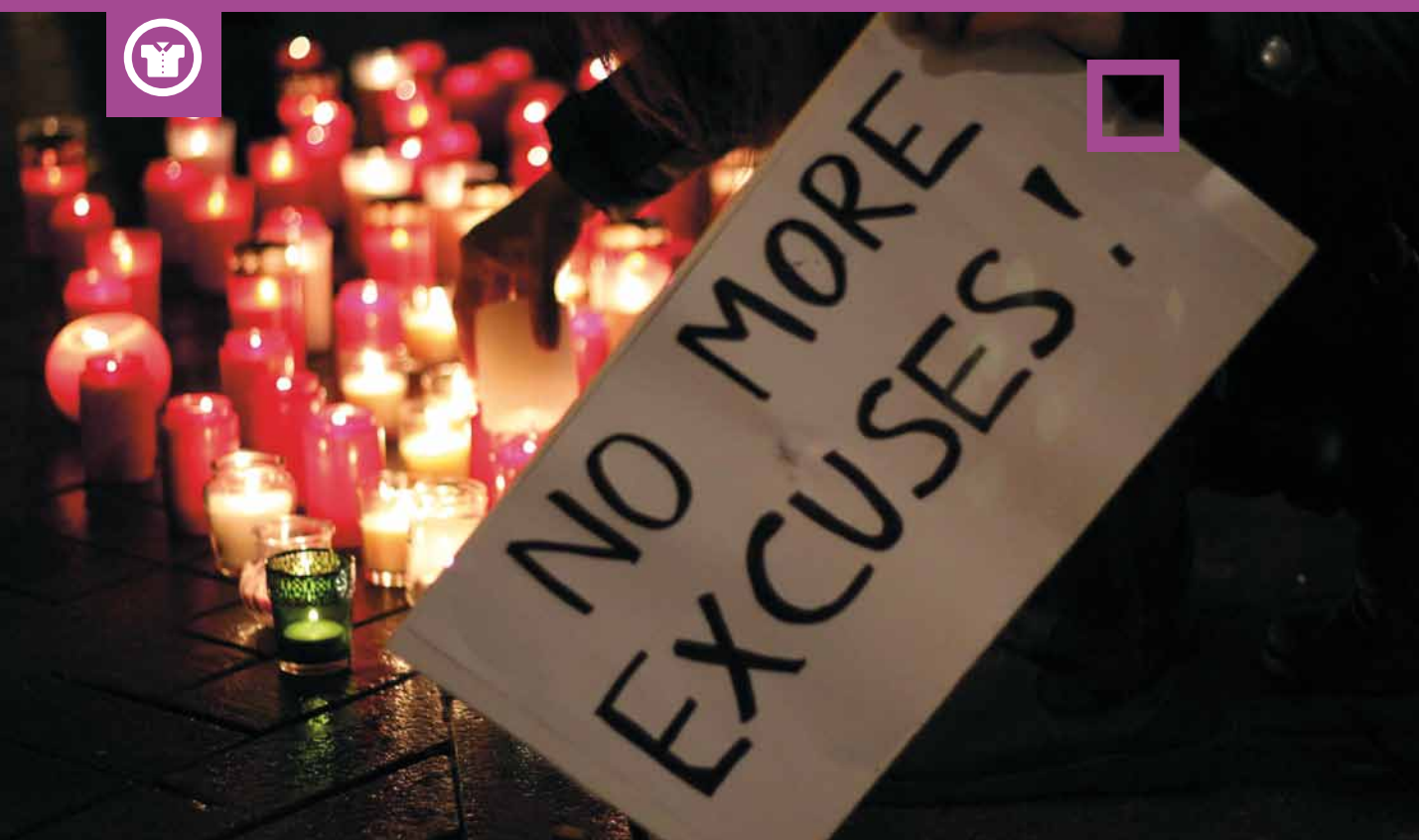
Clean Clothes Campaign

SOMO

Fatal Fashion

Analysis of recent factory fires in Pakistan and Bangladesh: a call to protect and respect garment workers' lives



CCC & SOMO

March 2013

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SOMO is an independent research organisation. In 1973, SOMO was founded to provide civil society organizations with knowledge on the structure and organisation of multinationals by conducting independent research. SOMO has built up considerable expertise in among others the following areas: corporate accountability, financial and trade regulation and the position of developing countries regarding the financial industry and trade agreements. Furthermore, SOMO has built up knowledge of many different business fields by conducting sector studies.

Colophon

Fatal Fashion
Analysis of recent factory fires in Pakistan and Bangladesh: A call to protect and respect garment workers' lives
March 2013

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About the organisations

Centre for Research on Multinational Corporations (SOMO)

The Centre for Research on Multinational Corporations (SOMO) is an independent, not-for-profit research and network organisation working on social, ecological and economic issues related to sustainable development. Since 1973, the organisation has been investigating multinational corporations and the consequences of their activities for people and the environment around the world. SOMO supports social organisations by providing training, coordinating networks and generating and disseminating knowledge on multinational corporations in a context of international production, trade, financing and regulation.

Clean Clothes Campaign (CCC)

The Clean Clothes Campaign (CCC) is dedicated to improving working conditions and supporting the empowerment of workers in the global garment and sportswear industries. Since 1989, the CCC has worked to help ensure that the fundamental rights of workers are respected. We educate and mobilise consumers, lobby companies and governments, and offer direct solidarity support to workers as they fight for their rights and demand better working conditions. The CCC is an international alliance that works to improve conditions and support the empowerment of workers in the global garment industry. The CCC has national campaigns in 15 European countries with a network of 250 organisations worldwide, and international secretariat based in Amsterdam. Members and partners include trade unions and non-governmental organisations (NGOs) covering a broad spectrum of perspectives and interests, such as women's rights, consumer advocacy and poverty reduction.

1. Introduction

1.1. Background

This report describes in detail two recent cases of factory fires that swept through the facilities of two South Asian clothing manufacturers producing for international brands. These cases are exemplary for the poor health and safety conditions of thousands of factories in Asia, and the lack of responsibility taken by private and public actors throughout the supply chain. The specific factory fires analysed in this report have occurred at Ali Enterprises in Karachi, Pakistan, in September 2012; and at Tazreen Fashions Limited (hereafter referred to as Tazreen Fashions) in Dhaka, Bangladesh, in November 2012. Hundreds of workers were killed in horrendous circumstances, and many others were injured. Sub-standard buildings, poor emergency procedures, inadequate and blocked fire exits, and overcrowded workplaces resulted in an extremely high death toll.[1]

The cases described in this report are not stand-alone incidents, but the result of systemic hazardous conditions in the garment industry in Pakistan and Bangladesh. The safety record of the Bangladesh garment industry is appalling. Between 2006 and 2009, 414 garment workers were killed in at least 213 factory fires, as reported by the Bangladesh Fire Department.[2] Since 2009, at least 165 workers were killed in Bangladesh in four separate incidents at factories producing for international brands.[3] Since the Tazreen Fashions fire on 24 November 2012, another 28 factory fires have been reported. At least 591 workers were injured and eight workers lost their lives in the two months until 28 January 2013.[4] According to the International Labor Rights Forum (ILRF), in Pakistan at least a dozen garment or shoe factory fires have been reported in the media since 2004.[5]

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1 Clean Clothes Campaign, “Hazardous Workplaces: Making the Bangladesh Garment industry safe”, November 2012.

2 The Star, “Locked doors and lost lives”, Volume 9 Issue 49, 24 December 2010 <http://www.thedailystar.net/magazine/2010/12/04/special.htm >

3 Garib & Garib Sweater Factory, Gazipur, 25 February 2010; That’s It Sportswear, Dhaka, 14 December 2010; Eurotex, Dhaka, 3 December 2011 and Tazreen Fashions, Dhaka, 24 November 2012. International Labor Rights Forum, “Deadly Secrets – What companies know about dangerous workplaces and why exposing the truth can save workers’ lives in Bangladesh and beyond”, 2012.

4 American Federation of Labor rand Congress of Industriall Organizations, Petition against access for Bangladesh to the GSP, Annex 2: “Garment Factory Fire Incidents since Tazreen Fashion Factory Fire of Nov 24, 2012 (as of January 28, 2013).

5 International Labor Rights Forum, “Deadly Secrets – What companies know about dangerous workplaces and why exposing the truth can save workers’ lives in Bangladesh and beyond”, 2012.

The two cases treated in this report are symptoms of an ailing system. They reflect systemic flaws on the level of government protection of human rights and lack of respect shown by the garment industry for workers' rights. The garment industries in Bangladesh and Pakistan are notorious for their low wages, repression of unions and demanding and unsafe working conditions. With regard to fire safety, this means that workers are not in the position to monitor or report freely about safety hazards.

However, this is not just a local problem. The Pakistan and Bangladesh garment industries are strongly export-oriented; the lion's share of the production is destined for US and European markets. Bangladesh's garment industry accounts for 78% of total exports and contributes 17% of the country's Gross Domestic Product (GDP). Some 59% of Bangladesh exports are destined for the European market, while 26% is exported to the United States.[6] According to the Pakistan Readymade Garments Manufacturers and Exporters Association (PRGMEA), 54% of Pakistan's exports constitute garments, and the garment sector contributes 8.5% to the country's GDP. Around 91% of garments are exported to the European Union (EU) and the US.[7]

Facing rising wages and higher production costs in China, apparel brands started looking for new locations with cheap production capital. Bangladesh and Pakistan both fit the bill.[8] Bangladesh has the lowest hourly wage in the world at USD 0.32 cents per hour. Pakistan ranks third on labour costs with an average hourly wage of USD 0.55 cents.[9] As a consequence, the volume of orders in Bangladesh and Pakistan has exploded, but the production capacity of factory buildings has not been adequately adapted to these changing circumstances. In combination with failing or absent government inspections and inadequate buyer policies, this creates a ticking time bomb and the certainty that many more calamities will occur unless considerable investments in building and fire safety in Pakistan and Bangladesh are made.

1.2. Aim and target group

In this report, SOMO and CCC aim to clarify the duties and responsibilities of the different actors involved in the described cases - buying and supplying companies; audit and certification firms; and governments at the beginning and the end of the

[6] Bangladesh Knitwear Manufacturers & Exporters Association and Institute of Apparel Research & Technology, "Apparel Exports Statistics of Bangladesh – Fiscal year 2010 – 2011, 2011.

[7] PRGMEA, "Pakistan – the cotton country", Presentation on the Garment Industry, 2011 <http://www.prgmea.org/res.asp>

[8] Bloomberg Business Week, "*Pakistan's Textile Industry Is Dangerously Fragile"*, 26 April 2012 <http://www.businessweek.com/articles/2012-04-26/pakistans-textile-industry-is-dangerously-fragile> and World Bank Development Research Group, "*The Global Apparel Value Chain, Trade and the crisis – Challenges and opportunities for developing countries"*, April 2010 <http://unstats.un.org/unsd/trade/s_geneva2011/refdocs/rds/apparel%20industry%20and%20crisis%20%28gereffi%20-%20apr%202010%29.pdf>

[9] USAID, "Cost Competitiveness of Pakistan's Textiles and Apparel Industry*"*, September 2009.

supply chain. In addition, SOMO and CCC assess to which degree these duties and responsibilities have been met. The ultimate objective is to ensure that victims of the factory fires receive adequate compensation and redress, and to contribute to structural improvements of working conditions in the global garment industry. This report is intended for each of the described actor groups, as well as the general public.

1.3. Methodology

The case descriptions in this report were developed using public sources, and primary and secondary sources recorded in an internal database maintained by the Clean Clothes Campaign (CCC). The CCC Urgent Appeals database comprises information on approximately 380 urgent appeals cases from 1 January, 1999 to date. Case files include the background of cases, developments and updates on actions undertaken by labour rights organisations in support of the workers concerned, and media reports.

A draft of the report was shared for review with the business actors named in this report; that is with brands and retailers, both those that have confirmed sourcing from the two manufacturers and those that have not, as well as the named audit firms and certification bodies. The objective of the review is to allow for the correction of possible factual mistakes.

The following companies and organisations responded to the review request: BSCI, C&A, Disney, El Corte Ingles, Diesel, Karl Rieker, KiK, Li & Fung, SAI and SAAS, Sears, Walmart and WRAP.

Where relevant, their comments have been included in the report.
The following companies did not respond to the review request: ENYCE, Edinburgh Woollen Mills, Delta Apparel, Dickies, Piazza Italia and Teddy Smith.

1.4. Outline

There are four chapters following this introduction. **Chapter 2** describes the United Nations “Protect, Respect, Remedy” framework, which applies to the actors involved and is used to assess their duties and responsibilities.

Chapters 3 and 4 present company profiles of Ali Enterprises and Tazreen Fashions, including relevant details concerning ownership, location of the facilities, workforce, buyers, social auditing and certification. Moreover, detailed accounts of the September and November 2012 fires are provided, followed by a description of actions undertaken with regards to legal steps and compensation since the disaster by relevant actors, including local and international civil society organisations (CSOs).

Chapter 5 gives conclusions and summarises the recommendations for each of the actors involved – governments, companies and audit firms – in order for them to meet their respective duties and responsibilities to protect and respect the rights of the victims of the fires and the garment workers in Bangladesh and Pakistan.

2. The Protect, Respect and Remedy framework

2.1. Introduction

The United Nations (UN) has acknowledged that the activities of business enterprises may have a negative impact on human rights. A mandate on business and human rights was created in 2005 on the issue of human rights and transnational corporations and other business enterprises. A Special Representative for Business and Human Rights, Professor John Ruggie, was appointed by the UN Secretary General. This has resulted in the development of the 'Protect, Respect and Remedy' framework in 2008[10] which outlines the duties and responsibilities for states and businesses to address business-related human rights abuses, followed by the Guiding Principles adopted in 2011[11] that outline how states and businesses should implement the UN framework.

The 'Protect, Respect and Remedy' framework rests on three pillars. The first is the State's duty to protect against human rights abuses by third parties, including business enterprises, through appropriate policies, regulation and adjudication. The second is the corporate responsibility to respect human rights, which means that business enterprises should act with *due diligence* to avoid infringing on the rights of others and to address any adverse impacts. The third is the need for greater access by victims to effective remedy, both judicial and non-judicial.[12] The following sections apply the framework to the actors involved and demonstrate how they failed to assume their respective duties and responsibilities in the featured cases.

2.2. Textile and garment industry in Pakistan

The textile and garment industry is of vital importance to Pakistan's economy. According to Pakistan's Ministry of Finance's Economic Survey 2011-12, the industry

[10] Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. "Protect, Respect and Remedy: a Framework for Business and Human Rights", 2008 http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/128/61/PDF/G0812861.pdf?OpenElement

[11] United Nations Human Rights Office of the High Commissioner, "" Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect and Remedy"", 2011 http://ww.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

[12] SOMO, CEDHA and Cividep India, "How to Use the UN Guiding Principles on Business and Human Rights in Company Research and Advocacy. A guide for civil society organisations". Amsterdam: SOMO, November 2012 http://somo.nl/publications-en/Publication_3899

employs approximately 38 per cent of the country's industrial labour force, constitutes 46 per cent of its manufacturing base, generates 54 per cent of export earnings and accounts for 8.5 per cent of the total gross domestic product.[13] The European Union and the United States are major export markets. According to the PRGMEA, 91 per cent of garments are exported to the EU and the US.[14]

Pakistan has attracted foreign buyers with low labour costs. This is reflected in the poor conditions for garment workers. Trade union rights are often violated in Pakistan; employers strongly resist the unionisation of their employees, resorting to intimidation, dismissal and blacklisting.[15] Workers are faced with unhealthy and hazardous working conditions; appropriate protective equipment is lacking; old and outdated wiring causes short circuiting, which leads to fire outbreaks; fire extinguishing facilities, if available, are often outdated.[16]

2.3. Textile and garment industry in Bangladesh

The garment industry has become the backbone of the Bangladesh economy. It accounts for 78 per cent of total exports and contributes 17 per cent of the country's gross domestic product. Some 59 per cent of Bangladesh exports are destined for the European market, while 26 per cent is exported to the United States.[17] Attracting a growing number of foreign buyers over the last years, Bangladesh has become the second largest export of apparel, after China.[18]

Bangladesh's garment industry is characterised by fast production relying on cheap labour and low production costs. Over three million workers, the majority of whom are young women, are employed in the Bangladesh garment industry and remain the lowest paid garment workers in the world. Many workplaces fail to adhere to the most basic standards of health and safety.[19]

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13 Textile World Asia, "Pakistan Faces Challenges", July/August/September 2012 <http://www.textileworldasia.com/Articles/2012/September/Country_Profile_Pakistan.html>

14 PRGMEA, "Pakistan – the cotton country", Presentation on the Garment Industry, 2011,<http://www.prgmea.org/res.asp>

15 ITUC, "Annual survey of violations of trade union rights, 2012 <http://survey.ituc-csi.org/Pakistan.html?edition=336>

16 Daily Times, "Workers decry lack of health and safety in factories, workplaces", 12 February 2013 http://www.dailytimes.com.pk/default.asp?page=2013\02\12\story_12-2-2013_pg7_13

17 Bangladesh Knitwear Manufacturers & Exporters Association and Institute of Apparel Research & Technology, "Apparel Exports Statistics of Bangladesh – Fiscal year 2010 – 2011, 2011.

18 Based on data from: United Nations Conference on Trade and Development, 'UNCTAD Handbook of Statistics 2011', United Nations, New York and Geneva, 2011.

19 Clean Clothes Campaign, "Hazardous workplaces: Making the Bangladesh Garment industry safe", November 2012 < http://www.cleanclothes.org/resources/ccc/working-conditions/hazardous-workplaces-making-the-bangladesh-garment-industry-safe >

The rapid expansion of the industry has led to the conversion of many buildings, built for other purposes, into factories, often without the required permits. Other factories have had extra floors added or have increased the workforce and machinery to levels beyond the safe capacity of the building. Many factories run day and night in order to meet production targets. The establishment of factories, or the conversions of other buildings into garment factories, has often been done as quickly and as cheaply as possible, resulting in widespread safety problems including faulty electrical circuits, unstable buildings, inadequate escape routes and unsafe equipment.[20]

2.4. The state duty to protect human rights

States' international human rights law obligations require that they respect protect and fulfil the human rights of individuals within their territory and/or jurisdiction. This includes the duty to protect against human rights abuse by third parties, including business enterprises. However, the policies and practices of both the governments of Pakistan and Bangladesh have allowed for the permissive environment in which the factory fires at Ali Enterprises and Tazreen Fashions could occur, and in which many more fires will follow if adequate measures are not taken.

Pakistan

Pakistan has not ratified all relevant ILO Conventions. For instance, Convention 135 regarding freedom of association and Convention 155 regarding the right to a safe and healthy work environment and Convention 121 on employment injury benefits. Moreover, the translation of international labour standards into national labour law is not optimal. On the level of enforcement of existing labour law, the Pakistani government is clearly failing. The government does not ensure that the rights to organise and to bargain collectively are respected.[21]

The legal minimum wage does no equal a living wage. Wages are extremely low; after Bangladesh and Cambodia, Pakistani garment workers are the lowest paid garment workers in the world.[22]

Labour inspection is almost non-existent. In fact, labour inspections were abolished under the Punjab Industrial Policy of 2003 with the aim of "developing an industry and business-friendly environment" to attract foreign investment. The ban originated in the province of Punjab and was later also installed in the province of Sindh (where

[20] Ibid.
[21] ITUC annual survey of violations of trade union rights 2011: <http://survey.ituccsi.org/Pakistan.html?edition=336&lang=en>
[22] USAID, "Cost Competitiveness of Pakistan's Textiles and Apparel Industry", September 2009.

Karachi is situated).[23] Government bodies in charge of building and fire safety fail to carry out their tasks adequately.

Bangladesh

Bangladesh has not ratified all relevant ILO Conventions. For instance, Convention 135 regarding freedom of association, Convention 138 regarding the Minimum Age for Admission to Employment, Convention 155 regarding the right to a safe and healthy work environment, and Convention 121 on employment injury benefits have not been ratified. Moreover, the translation of international labour standards into national labour law is far from optimal. On the level of enforcement of existing labour law, the Bangladesh government fails to carry out its tasks adequately. The government does not guarantee that the rights to organise and to bargain collectively are respected.[24]

The legal minimum wage does no equal a living wage. Wages are extremely low; Bangladesh garment workers are the lowest paid in the world. [25] Government bodies in charge of building and fire safety, such as the inspectorate of Factories and Establishments fail to carry out their tasks adequately. While the Bangladeshi garment industry has been growing at a rapid pace, the labour inspectorate is dramatically understaffed. According to the Bangladesh Occupational Safety, Health and Environment Foundation, in 2008 there were only 80 inspectors in the entire country—including 20 inspectors for occupational health and safety— for 24,299 factories, three million shops and establishments, and two major ports.[26] According to a 2011 International Labour Organization (ILO) report, the number of labour inspectors had increased to 93 in 2010. However, the number of new workplaces has also dramatically increased during this period. In addition, the ILO noted that the number of inspectors devoted to occupational safety and health has remained the same over the last 26 years. [27]

2.5. The corporate responsibility to respect human rights

Within the context of failing protection of workers by the governments of both Bangladesh and Pakistan through adequate regulation and inspection, the present

[23] The Guardian, “Karachi's factory fire exposes Pakistan's lax health and safety regime”, 14 September 2012 http://www.guardian.co.uk/commentisfree/2012/sep/14/karachi-factory-fire-pakistan-health-safety

[24] ITUC annual survey of violations of trade union rights 2011, <http://survey.ituccsi.org/Bangladesh.html?edition=336&lang=en>

[25] Clean Clothes Campaign, “Hazardous workplaces: Making the Bangladesh Garment industry safe”, November 2012 <http://www.cleanclothes.org/resources/ccc/working-conditions/hazardous-workplaces-making-the-bangladesh-garment-industry-safe>

[26] Ibid.

[27] International Labor Organization, “Report of the Committee of Experts on the Application of Conventions and Recommendations”, 2011, p 504.

report unveils how multiple business actors failed to meet their responsibility to respect human rights, the combination of which allowed for the tragedies to happen. Factory management failed to provide a safe working environment. Buyers (including well-known brands and retailers like C&A, KiK and Walmart) failed to ensure that the factories they sourced from were safe. And auditing and certification firms that some of the buyer firms relied upon failed to provide reliable assurance that the factories complied with health and safety standards. In doing so, each of these companies along the garment supply chain failed to meet its internationally recognised corporate responsibility to respect human rights (which includes labour rights). It is worth noting that the corporate responsibility to respect human rights exists independently from the state duty to protect human rights.

Due diligence

An important principle under the corporate responsibility to respect human rights is for companies to act with *due diligence*. Due diligence can be understood as a business process through which enterprises actively identify, prevent, mitigate and account for how they address and manage their potential and actual adverse human rights impacts. The process should include assessing actual and potential impacts throughout their business operations, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. (Potentially) affected rights holders, or their legitimate representatives, should be engaged in a meaningful manner.

Due diligence implies more than just an assessment of risks for the company; the purpose is to understand and address risks and abuses that the company's activities pose to rights holders, such as factory workers, their dependents and communities, including in its supply chain and through its other business relationships. Moreover, due diligence demands companies to see to it that future violations of human rights are prevented and that adverse impacts are mitigated. Remediation and redress for victims of human rights abuses is an important principle under the corporate responsibility to respect human rights.[28]

In the cases of Ali Enterprises and Tazreen Fashions both suppliers and buyers heavily relied on auditing and certification to manage their due diligence obligations. In both cases, auditing firms and certification bodies provided undeserved and unjustifiable assurance that the factories in question complied with health and safety standards. Over the past years, the CCC and SOMO have repeatedly pointed out that

[28] United Nations Human Rights Office of the High Commissioner, "Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect and Remedy"", 2011. http://ww.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf; SOMO, CEDHA and Cividep. How to use the Guiding Principles on Business and Human Rights in company research and advocacy. November 2012 http://somo.nl/publications-en/Publication_3899

'social audits' are failing to deliver as a tool for assessing respect for labour rights. There are multiple reasons for this.

Workers, workers' organisations, women's and labour NGOs are marginalised in the social audit process. It is easy for workplaces to receive positive evaluations, as audit visits are often announced in advance, allowing factory managers time to prepare and convey a false impression of working conditions. Factory managers are deceiving social auditors in many ways, most notably by coaching workers before they are interviewed by auditors to convey false or incomplete information and by falsifying records. Social audits are usually too short, too superficial and too sloppy to identify certain types of code violations. Workers are badly informed about their rights, often too scared for their own jobs to speak up about problems during audits, and generally do not have the opportunity to file a complaint.[29]

The vast majority of social audits are conducted by global firms whose staff is generally unskilled and inexperienced to do the job, and whose business model conflicts with the requirements for credible, independent social auditing. Social auditing is often conducted by means of a checkbox approach. Auditors may only look superficially at the availability of firefighting equipment and fire training certificates. Auditors often lack the expertise to assess electrical machinery, boilers, and construction deficits. Audits are often not followed by effective remediation. Last but not least, the audit industry is closed and secretive, preventing serious discussion about its policy and practices and possible improvements to its methods.[30] This report describes how social auditing failed as a due diligence tool.

Furthermore, the lack of transparency of audit results inhibits effective preventive actions by other actors. When buyer audits detect non-compliances at supplier level, the buyer may cut the business relationship without alerting other relevant stakeholders. Consequently, worker representatives, the government, and/or other buyers cannot take preventive action. Garment factory management may decide not to make investments in upgrading buildings to safety standard, since there are sufficient buyers out there that are not demanding when it comes to health and safety. The lack of transparency of social audit results adds to the risk that unsafe working conditions remain unaddressed. Workers remain in current practice uninformed about the safety assessment of their factories.

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[29] Garrett Brown, "The record of failure and fatal flaws of CSR factory monitoring", February 2013 http://www.ishn.com/articles/95045-fatal-flaws-of-foreign-factory-audits?v=preview ; Clean Clothes Campaign, "Looking for a quick fix. How weak social auditing is keeping workers in sweatshops", November 2005 < http://www.cleanclothes.org/component/content/article/1166 >

[30] Garrett Brown, "The record of failure and fatal flaws of CSR factory monitoring", February 2013 http://www.ishn.com/articles/95045-fatal-flaws-of-foreign-factory-audits?v=preview; Clean Clothes Campaign, "Looking for a quick fix. How weak social auditing is keeping workers in sweatshops", November 2005 < http://www.cleanclothes.org/component/content/article/1166 >

Even in cases where a buyer cuts their business relationship with an unsafe factory, it regularly happens that the same supplier reappears in the supply chain by means of (unauthorised) subcontracting as has been the case for Walmart, Sears and Teddy Smith production at Tazreen Fashions.

Purchasing practices

Other major obstacles to ensuring respect for labour rights are the purchasing practices that buyers impose on their suppliers. CCC and SOMO are of the opinion that purchasing practices should enable and not inhibit suppliers to be decent employers. Currently, however, pricing policy does not take into account the social and environmental quality of sourced products and does not take into account the investment needed for upgrading the building, leaving garment producers with insufficient investment capital. To live up to impossibly short supply lead times imposed by buyers, suppliers exercise excessive pressure on workers to meet production targets, thus violating workers' rights. Furthermore, buyer-supplier relationships in the Ready Made Garment industry are generally unstable: buyers shift orders continuously from supplier to supplier, blocking the economic security needed for suppliers to make investments in building safety. Instead of building stable trading relations with multi-year contracts and placing substantial orders buyers generally look for the cheapest options and allow for the expansion of orders even when factories are knowingly unsafe, or when it can be reasonably expected that higher production volumes will override the capacity of factories, business groups or even countries.

The unstable purchasing relationships between buyers and suppliers, particularly at subcontracting level, inhibit both prevention of safety hazards and their remedy. First of all, suppliers are not motivated to take preventive measures when buyers come and go. Second, unstable business relationships make it is more difficult for buyers to use their leverage to ensure safe buildings and safe practices. Third, once an incident occurs, the factory may be producing for a limited amount of buyers, while many more have "profited" from unsafe (and cheap) production conditions. In fact, the most common answer for buyers when confronted with the presence of their garment products in burned down factories is that the subcontracting was unauthorised or that it concerns samples. This limits their liability, both in legal and non-legal terms.

Redress

Preventive measures taken by business actors along the supply chain in these two cases were clearly inadequate, but even after the tragic events occurred, companies failed to ensure swift and adequate redress for the victims of the fire and their families. Remediation and redress for victims of human rights abuses is another important principle under the corporate responsibility to respect human rights. Civil society groups in Bangladesh and Pakistan, with the support of CCC, global union IndustriALL and others, have developed clear proposals for the involved

governments, companies and audit firms in order for them to meet their respective duties and responsibilities to respect the rights of the victims of the fires and the garment workers in Bangladesh and Pakistan. These proposals include details regarding compensation and redress. Persistent advocacy by local CSOs, CCC and others has resulted in a number of brands and retailers taking steps in the right direction. After months of campaigning pressure, KiK finally agreed to discuss compensation with local labour rights group PILER. This resulted in an agreement between KiK and PILER signed on 5 January 2013. However, still many demands have not been met to date, as the cases will demonstrate.

Compensation

ILO convention 121 recommends institutionalised compensation schemes.[31] However, Bangladesh and Pakistan have not ratified Convention 121. Full compensation may not automatically be ensured by law and practice. Nevertheless, the highest international labour standard should prevail. According to SOMO and CCC full compensation should include compensation for grief and loss of income, medical and psychological care, payment of wages (and in case a factory closes, negotiated severance) and continuance of worker employment, for the families of the victims, the injured, and workers who are now jobless.

Many of the workers and families affected by the garment fires in both Karachi and Dhaka have not yet received any compensation or have only received compensation that fails to cover the loss of income for the survivors and their families. Many workers and their families risk not getting any compensation at all, due to poor registration of workers, lengthy procedures to establish family relations (e.g. DNA tests), failing communication, and families and workers returning to home villages, amongst other things. In Pakistan, compensation is grounded in law. However, as workers are not registered with social security institutions, compensation is nevertheless out of reach for victims.

[31] ILO convention 121 is only ratified by 24 countries, and Bangladesh and Pakistan are not amongst them.

3. Ali Enterprises

3.1. Factory fire

On Tuesday, 11 September 2012, at around 6 pm, a devastating fire broke out at the Ali Enterprises factory in Karachi, Pakistan The fire cost the lives of around 300 workers. Some of the workers were burnt alive. Others died of suffocation. Dozens more were injured, many severely. Months after the tragedy, the exact number of deceased and injured workers is still not clear. An Incident Report issued by the provincial Sindh government on 12 September, one day after the fire, reports 252 casualties. That same day, Geo Pakistan and Channel 4 reported the number of deaths as 289. In an article published by Der Spiegel six weeks after the fire, workers' representatives state that more than 300 people had lost their lives because of the fire. This article mentioned that 63 suspected dead are still officially counted as being missing. The families of these suspected dead provided DNA material so that it could be compared to that of the bodies that have already been recovered. An article in the New York Times published on 7 December, however, spoke of at least 262 workers killed by the fire. Early December, according to the Pakistan Institute of Labour Education and Research (PILER, an NGO based in Karachi), the government had established the official numbers at 262 dead (12 female, 250 male), of which at that time 220 were identified. The combined number of unidentified and missing was 42 as per official account.

Likewise, the number of injured workers is not clear. On 6 October, PILER wrote: "newspapers reports suggest 65 workers having been injured, but this number is unlikely to be accurate." The number of injured is expected to be much higher as Dr. Abdus Salam, form Karachi's Civil Hospital, is quoted by Deutsche Welle as saying that at least 65 workers suffered broken bones after jumping out of windows. He does not speak about workers who suffered other types of injuries.

There are several reasons that might explain the differences in the reported numbers of dead and injured workers. First, the death toll rose because it took rescue workers several days to gain access to certain parts of the factory. In addition, some of the severely injured workers subsequently died.

Days after the fire, there was great confusion about the number of workers that were present when the fire broke out. Estimates ranged from 500 to 1500 workers. There are no attendance papers. In addition, most workers never signed a contract and were not registered as employees of Ali Enterprises with any social security institution. Data compiled by police investigators stated that "on September 11, when the fire broke out, 1,293 people had come to work".

The cause of the fire remains unclear. On 13 September 2012, the BBC reported that a faulty electrical switch is thought to have caused a boiler to explode and that the flames set fire to chemicals stored in the building. The Incidence Report of the Sindh government mentions as "possible cause of the fire": "a) short circuiting" and "b) fire at the generator".

The high death toll has been attributed to the fact that workers were trapped inside the factory. There was only one accessible exit; the three other doors were locked. Windows on the lower floors were covered with metal bars. The factory was crammed with combustible materials, including piles of clothes and chemicals, and stairways were blocked. Fire alarms and sprinklers were not in place. The only exit from the basement was through the fabric store, which is where the fire broke out. Those workers still in the basement had no way of getting out and died when the basement filled with boiling water from the attempts to extinguish the fire.

In an interview with the CCC, a survivor of the Ali Enterprises factory fire reported that all of the windows at Ali Enterprises were barred, preventing workers from escaping the building. The only exits available to workers were staircases located next to lift shafts through which the fire spread to the upper floors of the factory. With the dark and the smoke workers were unable to find their way to these exits. Other potential exits, which included doors between departments, were locked.

In addition, fire fighters did not reach the factory until at least 75 minutes after the blaze erupted. At a certain point, the fire brigade ran out of water. Chief Fire Officer Ehtishamuddin told the Express Tribune that the water supply to the fire station of Sindh Industrial Trading Estates (SITE, an industrial area established by the Sindh government) had been disconnected for years because of unpaid bills.[32]

The chief of the Karachi fire department told media reporters that most of the bodies were found in the basement and on the first floor. He added that many bodies were charred beyond recognition and that in some cases rescue workers were not able to identify the victim's gender. Identification of the dead bodies was further hindered by the fact that most workers did not have a contract. Rescue workers said most of the victims died of smoke inhalation, and many of the survivors sustained third-degree burns. Many workers tried to escape from the burning building and jumped from the top floors, suffering broken bones. According to the News International, the majority of victims were below the age of 35 years.

[32] The Express Tribune, "Baldia factory fire: Fire station in SITE hasn't had water in years over unpaid bills", 29 September 2012 <http://tribune.com.pk/story/444159/baldia-factory-fire-fire-station-in-site-hasnt-had-water-in-years-over-unpaid-bills/>

Box 1: Survivors' testimonies

Mohammad Saleem, 32, who broke a leg after jumping out of the second floor, said he and his colleagues were hard at work late Tuesday. "It was terrible, suddenly the entire floor filled with fire and smoke and the heat was so intense that we rushed towards the windows, broke its steel grille and glass and jumped out," Saleem said.[33]

Another survivor, Allah Warayo, said there was a stampede as the fire spread. He ended up jumping from the third floor, but five members of his family did not escape. "We started running towards the exit. There were 150-200 people all running and pushing each other. I fell down unconscious. Then I managed to get some air from a vent. I started screaming. A crane made a hole in the wall and I was able to jump. I begged the rescue workers to help my relatives, but no-one paid any attention."[34]

3.2. Company profile

Ali Enterprises is a manufacturer of denim, woven, knitted and hosiery garments.[35] Production is mainly destined for the European and US markets. The company engages in pattern designing, cutting, stitching, washing, pressing, finishing and packaging textile products and has a production capacity of 10.000 garments a day.[36] There are no financial data publicly available about the company. According to the Chairman of SITE Association of Industry, Irfan Moton, annual sales of Ali Enterprises are estimated to be Rs. 5 billion (USD 51 million).[37] The company is member of the Karachi Chamber of Commerce and Industries[38] and the Pakistan Readymade Garments Manufacturers and Exporters Association (PRGMEA).[39]

[33] The News International, "Khi factory fire: Death toll rises to 289", 12 September 2012 < http://www.thenews.com.pk/article-67355-Karachi-factory-fire-death-toll-tops-100 >

[34] BBC News Asia, "Death toll from Karachi factory fire soars", 12 September 2012 < http://www.bbc.co.uk/news/world-asia-19566851 >

[35] Global Traders from Here website, "Ali Enterprises", no date, < http://www.gmdu.net/corp-133327.html> (28 December 2012).

[36] Ibid.

[37] International Herald Tribune, "Factory inferno: Ali Enterprises' assets frozen on SBP orders", 19 September 2012 <http://tribune.com.pk/story/438777/factory-inferno-ali-enterprises-assets-frozen-on-sbp-orders/>

[38] RINA website, "Evidence in Ali Enterprises case: Membership of Chamber of Commerce certificate of Ali Enterprises", no date <http://www.rina.org/en/rina_details/ali_enterprises_certificates.aspx> (20 December 2012).

[39] PRGMEA website, "Member search; Ali Enterprises", no date <http://prgmea.org/search.asp>, (20 December 2012)

Ownership

Ali Enterprises is a private company founded in 2000[40] and owned by Abdul Aziz Bhaila[41] and his sons Arshad Bhaila and Shahid Bhaila.[42] Shahid Bhaila is the CEO of Ali Enterprises.[43]

Location/premises

In September 2012, Ali Enterprises had one operating factory in Karachi, Sindh Province. The factory was located on the Sindh Industrial Trading Estates.[44] The factory was based in a three-storey building (ground floor, first floor and second floor). The building also included a basement.

A 'Certificate of Stability' issued by Al-Habib architects, planners and engineers in March 2012 states that workers will be employed on four floors (basement, ground floor and two floors).[45] However, after the fire, a senior officer with the Federal Investigation Agency – who wished to remain anonymous – told a reporter from the Pakistan News on Sunday that the factory's "plot was actually allotted for a ground-floor, small-industry unit only. Its approved capacity of workers was 250, but the factory owner expanded the hosiery unit into a leather garment and denim factory and constructed two extra floors illegally and hired 1500 workers."[46]

Ali Enterprises, after the fire[47]

[40] Pakistan Institute of Labour Education and Research, "Ali Enterprises Factory Fire Case: Key Information", 6 October 2012.

[41] FBR Company Profiles, 4 December 2012, *Company profile Ali Enterprises, Chairman: Mr A Aziz Bhalia*, accessed through LexisNexis on 19 December 2012.

[42] Pakistan Institute of Labour Education and Research, "Ali Enterprises Factory Fire Case: Key Information", 6 October 2012.

[43] Ibid

[44] S.I.T.E. website, "Member profiles", no date <http://www.siteassociation.org/member_company_profile.php>, (20 December)

[45] RINA website, "Evidence in Ali Enterprises case: Membership of Chamber of Commerce certificate of Ali Enterprises", no date <http://www.rina.org/en/rina_details/ali_enterprises_certificates.aspx>, (20 December 2012).

[46] The News on Sunday, "A criminal over-SITE", 23 September 2012 < http://jang.com.pk/thenews/sep2012-weekly/nos-23-09-2012/spr.htm#1 >

[47] Photo retrieved from: Daily News, "Families await bodies after Pakistan factory fire", 2 November 2012 <http://india.nydailynews.com/newsarticle/3845f386e3a5f2fccc2b424f6cb423bd/families-await-bodies-

Workforce

There is no certainty about the number of workers employed at Ali Enterprises at the time of the factory fire. PILER[48], as well as several media reports, speak of a work force of 1,500 to 2,000 workers.[49] The majority of the workers were male, and estimated ages of the majority of the workers are between 20 and 35 years old. A survivor told reporters from Der Spiegel that most of the workers were employed without a contract. Out of the total workforce, only 190 workers were registered with the Employees Old-Age Benefits Institution (EOBI).[50] This means that formally, the factory employed only 190 workers. According to KiK, one of the buyers of Ali Enterprises, the latest report of auditing firm UL Responsible Sourcing (no date given) stated that Ali Enterprises employed 410 workers and that all these workers were given an employment contract. Additionally, KiK wrote that it is investigating how these contradictory statements were possible.[51]

The majority of the workers were living in Orangi Town, a poor working-class neighbourhood in Karachi.[52] Several survivors said that many workers employed at Ali Enterprises came from far-away areas in Pakistan.[53]

In interviews with reporters from the New York Times, workers said that they worked 60 hours or more a week, sometimes in 24-hour shifts.[54] Workers told reporters from Der Spiegel that they were paid out on a piece-rate basis. "Depending on the size of the order, we earned between €1.50 and €5 every day," says one worker. Hardly any of them made more than 7,000 rupees (USD 72) a month.[55] The same article mentions that workers regularly worked 14 hours a day.

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after-pakistan-factory-fire>

48 Pakistan Institute of Labour Education and Research, “Ali Enterprises Factory Fire Case: Key Information”, 6 October 2012.

49 For instance Der Spiegel, 23 October 2012; Dawn.com, “Cause of Baldia factory fire remains mystery as probe proceeds”, 21 September 2012 <http://dawn.com/2012/09/21/cause-of-baldia-factory-fire-remains-mystery-as-probe-proceeds/>; The New York Times, “Inspectors Certified Pakistani Factory as Safe Before Disaster”, 19 September 2012 <http://www.nytimes.com/2012/09/20/world/asia/pakistan-factory-passed-inspection-before-fire.html?pagewanted=all>

50 International Herald Tribune, “All workers from Baldia factory to get Rs3,600 in pensions, says EOBI”, 18 September 2012 <http://tribune.com.pk/story/438223/all-workers-from-baldia-factory-to-get-rs3600-in-pensions-says-eobi/>

51 KiK, email correspondence with SOMO and CCC, 26 February 2013.

52 The New York Times, “More Than 300 Killed in Pakistani Factory Fires”, 12 September 2012 <http://www.nytimes.com/2012/09/13/world/asia/hundreds-die-in-factory-fires-in-pakistan.html?pagewanted=1>

53 Der Spiegel, “The Value of a Pakistani Worker Discounter Offers $1,930 Per Victim in Factory Fire”, 23 October 2012 < http://www.spiegel.de/international/world/criticism-over-damages-offered-by-german-discounter-for-pakistani-dead-a-862918.html > (4 January 2013).

54 The New York Times, “The Human Price - Certified Safe, a Factory in Karachi Still Quickly Burned”, 7 December 2012 < http://www.nytimes.com/2012/12/08/world/asia/pakistan-factory-fire-shows-flaws-in-monitoring.html?pagewanted=all&_r=0 >

55 Ibid.

3.3. Buyers

To date, German retailer KiK is the only buyer that confirmed sourcing from Ali Enterprises. According to a New York Times article, one reporter found a pair of jeans bearing the Diesel brand on the factory's premises after the fire. In a reaction, Diesel denied sourcing from Ali Enterprises.[56] KiK and the auditing and certification bodies concerned state they are not able to provide information about Ali Enterprises' buyers. KIK, however, is familiar with other buyers, as they indicated to be discussing compensation with other buyers.

KiK (Germany)

After the fire, labels with the name 'OKAY Men' were found in the factory.[57] OKAY is a brand of KiK, a German clothing discounter that operates around 3200 stores throughout Europe.[58] KiK only confirmed sourcing from Ali Enterprises after photos of garments recovered from the factory carrying the 'OKAY' logo were published. From a press release issued by KiK on 18 September 2012 it became clear that KiK had been sourcing from Ali Enterprises at least since 2007.[59]

KiK's Managing Director Sustainability & Corporate Communications Michael Arretz stated that KiK was responsible for 75 per cent of the factory's orders. However, according to an article in Der Spiegel Ali Enterprises workers said that, without a doubt, "at least 90 per cent" of the products produced were intended for KiK. [60] KiK, in its response to a draft version of this report, did not contradict this figure.

3.4. Social auditing

Social auditing by buyers: UL Responsible Sourcing (commissioned by KiK)

KiK requires its suppliers to adhere to the KiK Code of Conduct. Compliance with the Code of Conduct is monitored by KiK or an authorised third party.[61] In the case of Ali

[56] Diesel, correspondence with SOMO and CCC, 18 February 2013.

[57] The New York Times, "Anger Rolls Across Pakistani City in Aftermath of Factory Fire", 13 September 2012 < http://www.nytimes.com/2012/09/14/world/asia/anger-and-grief-across-karachi-after-factory-fire.html?pagewanted=all>

[58] KiK website, "Über Uns", no date <http://www.kik-textilien.com/unternehmen/de/ueber-uns/?quelle=shop> (4 January 2013).

[59] KiK press release, "Stellungnahme", 18 September 2012 <http://www.kik-textilien.com/unternehmen/de/presse/pressemitteilungen/unternehmensmeldungen/unternehmensmeldungen-single/date/2012/09/18/article/stellungnahme/>

[60] Der Spiegel, "The Value of a Pakistani Worker Discounter Offers $1,930 Per Victim in Factory Fire", 23 October 2012 < http://www.spiegel.de/international/world/criticism-over-damages-offered-by-german-discounter-for-pakistani-dead-a-862918.html

[61] KiK, "KiK Textilien und Non- Food GmbH Code of Conduct", 1 January 2012 < http://www.kik-

Enterprises, social compliance audits were conducted by UL Responsible Sourcing. KiK's Code of Conduct is based on "the conventions of the International Labour Organisation (ILO) and the respective norms of the United Nations". The code includes provisions regarding "working atmosphere; working hours; compensation; conditions of employment; health and safety at work; forced labour; child labour; discrimination and; freedom of association".[62]

The paragraph on occupational health and safety states:

> *"The workplace and the practice of the work must not harm employees' or workers' health and safety. A safe and clean working environment shall be provided. Occupational health and safety practices shall be promoted, which prevent accidents and injury in the course of work or as a result of the operation of employer facilities. These safety practices and procedures must be communicated to the employees as well as to the workers; they have to be trained in its effective usage. The same principles apply to all social facilities and accommodation facilities if provided by the employer."*[63]

KiK stated that three social performance audits were conducted at Ali Enterprises by UL Responsible Sourcing. According to the information available these audits were conducted between 2007 and December 2011. In an article in Der Spiegel, KiK representative Michael Arretz said that no serious shortcomings were found during these audits and that in principle Ali Enterprises was a reliable supplier.

In 2007, UL Responsible Sourcing conducted its first KiK commissioned audit at Ali Enterprises. The 2007 audit report revealed that Ali Enterprises failed to meet safety requirements.[64] According to an article in Der Spiegel during this audit, open cable ends were found as well as unsecured electrical equipment and unlit emergency exits. In addition, the 2007 audit report revealed that working hours exceeded the maximum and were not documented properly.[65] This required corrective actions. In press statements dated 18 September 2012/5 October 2012, KiK wrote that it received an audit report from UL Responsible Sourcing on 30 December 2011, which stated that all necessary corrective actions had been undertaken.[66]

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textilien.com/unternehmen/fileadmin/media/blaetterkataloge/COC_Eng/index.html >

62 Ibid.

63 Ibid.

64 KiK press release, "Stellungnahme", 18 September 2012 < http://www.kik-textilien.com/unternehmen/de/presse/pressemitteilungen/unternehmensmeldungen/unternehmensmeldungen-single/date/2012/09/18/article/stellungnahme/

65 Der Spiegel, "Zuverlässiger Lieferant", 22 October 2012 <http://www.spiegel.de/spiegel/print/d-89234400.html> (4 January 2013).

66 KiK press release, "Stellungnahme", 18 September 2012 < http://www.kik-textilien.com/unternehmen/de/presse/pressemitteilungen/unternehmensmeldungen/unternehmensmeldungen-single/date/2012/09/18/article/stellungnahme/ > (4 January 2013).

SA8000

The SA8000 standard - developed by Social Accountability International (SAI), a non-governmental, multi stakeholder organisation – is a social certification standard for socially responsible employment practices, based on the auditing of workplaces.[67] More than 3000 facilities have been SA8000 certified worldwide.[68] The SA8000 standard covers various elements, related to the protection of basic human rights of workers, such as; child labour, forced and compulsory labour, health and safety, freedom of association, discrimination etc.

The SA8000 certificate is issued after a certification audit has been carried out. The certification audit is carried out in two stages: the readiness review and the certification audit. These two audits are always announced. Certification lasts for three years, with a series of required surveillance audits (announced and unannounced) throughout this three year period.[69] Outcomes of these audits are not disclosed because, according to SAI, *"workers should be able to share information freely, confidentially, and without fear of retribution."*[70] Workers and their organisations however have repeatedly challenged this and requested SAI to share this information with them and publicly.

The SA8000 standard and audit process is factory based and does not include any requirement to investigate or verify the buyers at a certified company, nor does the process include analysis of buyers at certified companies. The audit process focuses on management systems and the eight performance elements in the SA8000 Standard.[71] Regarding the buyers of Ali Enterprises, CCC, in a letter to SAI and SAAS (Social Accountability Accreditation Services), dated 1 October 2012 writes: "whether or not SAI and SAAS currently have this information, you clearly have the right and responsibility to demand it of your accredited auditing organization, RINA (Registro Italiano Navale Group). We have no doubt that RINA has such information and we have no doubt that SAI and SAAS can get this information from RINA. If you have failed to do so, then you should rectify this immediately".[72]

SA8000 certifications may be issued by certification bodies that have received accreditation from SAAS. SAAS is an accreditation agency founded to accredit and

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67 Social Accountability International website, "SA8000 standard", no date < http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&pageId=937 > (4 January 2013).

68 SAI website, About us, no date <http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&pageId=472>, (19 December 2012)

69 SAI website, "Our work – SA8000 Standard", no date < http://www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageId=1118&grandparentID=479&parentID=937&nodeID=1#Certification > (29 January 2013).

70 SAI response to factory fire , "Q&A: Ali Enterprises Fire in Karachi, Pakistan" 20 September 2012, updated 7 December 2012, <http://www.sa-intl.org/_data/n_0001/resources/live/Q&A_AliEnterprises_8Dec2012.pdf>

71 SAI/ SAAS, correspondence with SOMO and CCC, 26 February 2013.

72 ILRF, CCC, MSN, USAS, WRC and AFL-CIO, letter to SAI, 1 October 2012.

monitor organizations as certifiers of compliance with social standards, including the SA8000 standard.[73]

The Pakistan government had a long-running subsidy programme (2007 – 2012) to encourage the certification of companies to the SA8000 standard in order to advance Pakistan's acceptance as a worthy sourcing base for global buyers. Under the subsidy scheme the government of Pakistan pays half of the cost of an SA8000 certification up to a certain ceiling. Approved consultants preparing companies for the scheme and certification bodies are also signatories to the agreement that pays out fully only when and if a certificate has been issued.

SAI/SAAS claim that the Ali Enterprises application for certification did not come through or use the government incentive programme.[74] SAI/ SAAS state that "neither SAI nor SAAS participated in the establishment or design of the programme. In November 2011, SAAS sent a memo to the three certification bodies then operating in Pakistan expressing its concerns and clarifying expectations in managing the subsidy programme. An excerpt of this memo reads:

> *"SAAS finds that a direct contractual agreement between the government of Pakistan and a CB [Certification Body] for direct payment of the latter's certification of an account to SA8000 is not a contravention, in and of itself, of any existing rules or procedures. Nonetheless, it would seem to increase the probability and likelihood of conflict of interest situations. The practice of an entity only paying for the auditing services rendered if the facility passes the certification leads to concern about impartiality - that the CB cannot be impartial in rendering a decision for fear of not being paid for its auditing services. The CB must be able to show how impartiality is maintained in such circumstances."*[75]

Notwithstanding these concerns, the SAAS website shows that Pakistan has the fifth largest number of SA8000 certifications worldwide.[76] Of the 164 certificates issued to facilities in Pakistan, 96 of them were audited by RINA.[77]

Certification of Ali Enterprises

Ali Enterprises received the SA8000 certification on 20 August 2012, just three weeks before the tragedy. Ali Enterprises received the certificate via a complicated process,

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[73] SAAS website, "home page", no date < http://www.saasaccreditation.org/ > (26 February 2013).
[74] SAI/ SAAS, correspondence with SOMO and CCC, 26 February 2013.
[75] SAI/SAAS, correspondence with SOMO and CCC, 26 February 2013.
[76] SAAS, "Certified Facilities By Country ", 30 June 2012 <http://www.saasaccreditation.org/facilities_by_country.htm>
[77] SAAS, "Certification Body certificates, by Country", Q2 2012 <http://www.saasaccreditation.org/certfacilitieslist.htm>

which involved subcontracted parties. Ali Enterprises' SA8000 certification was issued by RINA. However, RINA never visited Ali Enterprises. It had subcontracted the Regional Inspection & Certification Agency (RI&CA) from Pakistan to perform the actual audits,[78] an approach allowed at the time by SAAS. RI&CA is not accredited by SAAS and has a controversial reputation because of its unusually high rate of approvals in Pakistan.[79] Certification decisions, based in large part on RI&CA audits reports, were made by RINA.[80]

According to SAI, Ali Enterprises had undergone two announced initial certification audits. The next audit was again going to be an announced visit and the subsequent one was going to be an unannounced visit.[81] According to RINA, Ali Enterprises was visited between 22 June and 5 July 2012 with a total of ten days spent on site.[82] According to RINA, the audit report from RI&CA mentioned that:

> "*Fire extinguisher and fire safety buckets were available in sufficient quantity; "fire extinguishers were visible and accessible to all workers; access to fire extinguishers and passages leading to exits was maintained free from any kind of obstruction; primary exits and emergency exits are kept unlocked while employees are inside facility; emergency procedures exist, including record of regular emergency drills, fire-fighting training."*[83]

According to RINA safety trainings and fire drills were carried out at Ali Enterprises. In addition, emergency exists were in place, as were evacuation plans and fire prevention and extinction measures. According to RINA this is confirmed by certificates and photographs taken on the site during the audit. Among the certificates for Ali Enterprises on the RINA website are the following:[84]

- Basic Training of Fire Fighting certificate, issued by A.S. Fumigation & Fire Services on 2 April 2012. According to the certificate ten workers participated in this training.

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78 Until November 2009, RINA managed the audits and oversight of SA8000 activities from its office in India. After the 2008 terrorist attacks in Mumbai, Pakistan ceased issuing visas to India, creating travel difficulties for RINA employees. Therefore, RINA decided to subcontract RI&CA to conduct audits in Pakistan. Source: SAI, "Q&A: Ali Enterprises Fire in Karachi, Pakistan, 20 September 2012, updated 7 December 2012 <http://www.saintl.org/_data/n_0001/resources/live/Q&A_AliEnterprises_8Dec2012.pdf>

79 The New York Times, "The Human Price - Certified Safe, a Factory in Karachi Still Quickly Burned", 7 December 2012 < http://www.nytimes.com/2012/12/08/world/asia/pakistan-factory-fire-shows-flaws-in-monitoring.html?pagewanted=all&_r=0>

80 SAI & SAAS, correspondence with SOMO and CCC, 26 February 2013.

81 SAI, "Q&A: Ali Enterprises Fire in Karachi, Pakistan, 20 September 2012, updated 7 December 2012 <http://www.saintl.org/_data/n_0001/resources/live/Q&A_AliEnterprises_8Dec2012.pdf>

82 RINA, "Statement Ali Enterprises Fire", Update September 21, 2012, <http://www.rina.org/en/rina_details/ali_enterprises.aspx>,

83 Ibid.

84 Ibid.

- Fire Drill certificate, issued by A.S. Fumigation & Fire Services on 2 April 2012. According to this certificate all workers [there is no mentioning of the number of workers] participated in a fire drill on 2 April 2012.

An interview conducted with a survivor of Ali Enterprises by a CCC delegation to Pakistan in January 2013 contradicted these statements. When asked about fire training he categorically stated that neither he nor any of his colleagues had been given any kind of fire training in the one and a half years he had worked at the factory. When the catastrophic fire broke out on 11 September, workers tried to use the fire extinguishers in an attempt to put out the fire but none of workers knew how they were supposed to be used and these efforts failed.[85]

In addition, a report by the International Labor Rights Forum (ILRF) contains information from a Pakistani auditor who audited Ali Enterprises in 2010 and 2011 on behalf of a well-known international auditing firm and its client, an apparel brand. The auditor told ILRF that he had found several serious non-compliances but that nobody listened to him. He told ILRF that management showed him documents supposedly signed by the workers, stating that they had received both fire safety and first aid trainings as required by law. But workers told him that they had never attended such trainings and they had not signed the documents. In addition, the auditor said that the factory's fire safety exit was opened for auditors, but otherwise locked, with a guard posted in front.[86]

Worldwide Responsible Accredited Production (WRAP)

Worldwide Responsible Accredited Production (WRAP) is an independent, global non-profit organisation dedicated to the certification of facilities engaged in lawful, humane and ethical production.[87] WRAP certifies facilities, not brands. The certification process starts when a facility has completed the application form. If a factory demonstrates full compliance with the WRAP principles during an audit conducted by an accredited organisation, it is certified for one year. Unannounced follow-up audits are conducted on a selected number of factories based on a risk profile to ensure they maintain compliance. If they are found not to be in compliance, they either receive a written corrective action plan or they are decertified, based on the severity of the violations.[88] The WRAP Principles cover core labour standards and

[85] Clean Clothes Campaign, Internal report field mission CCC 21-31 January.

[86] International Labor Rights Forum, "Deadly Secrets – What companies know about dangerous workplaces and why exposing the truth can save workers' lives in Bangladesh and beyond", 2012 <http://www.laborrights.org/creating-a-sweatfree-world/news/new-report-documents-fire-safety-cover-ups-by-us-retailers>

[87] WRAP website, "About WRAP", no date <http://www.wrapcompliance.org/en/certification-program>, (21 December 2012)

[88] WRAP website, "Frequently Asked Questions", no date <http://www.wrapcompliance.org/en/faqs> (29 January 2013)

include a principle on health and safety ("Facilities will provide a safe and healthy work environment").[89]

Ali Enterprises was WRAP-certified until late 2011.[90] WRAP certified Ali Enterprises in 2007, 2008 and 2010. The certification expired in late 2011 and was not renewed by Ali Enterprises. During the audits, no violations of the WRAP principles were found. In an article in Women's Wear Daily magazine, WRAP Chairman Charles Masten referred to the audits performed at the factory; *"*I can feel comfortable that when that auditor went into the factory on that day and completed an audit, all those entrances and exit were not locked*".*[91] He acknowledged that all bets are off when the auditors leave a factory. "An audit is a snapshot when you go in there," Masten said. "All hell can break loose as soon as the auditors leave. That is the reason that with all WRAP agreements up front, we let them know we will come back unannounced at any time we want to see if they are adhering to our principles. We don't even tolerate doors being obstructed with big shipments that prevent workers from getting in and out of the factory."

3.5. Actions undertaken after the fire

Civil society organisations

The National Trade Union Federation of Pakistan (NTUF) reacted swiftly to the accident by organising a protest demonstration in Karachi on the 12th of September. Street protests continued during the weeks following the fire.

IndustriALL launched a petition at LabourStart, an international on-line news and campaign site, targeting the government of Pakistan to ensure compensation would be paid to the families of dead workers, injured workers and that the Ali Enterprises workers continue to receive their salaries. In addition, they called upon the government to arrest the employer and charge him with murder and take action against the labour department and government authorities that failed to ensure the safety and health of these workers. 24,975 people joined this campaign and sent an email to the Pakistan government.[92]

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89 WRAP website, "WRAP 12 principles*"*, no date<http://www.wrapcompliance.org/en/wrap-12-principles>, (21 December 2012)

90 The New York Times, "Certified Safe, a Factory in Karachi Still Quickly Burned", 7 December 2012 <http://www.nytimes.com/2012/12/08/world/asia/pakistan-factory-fire-shows-flaws-in-monitoring.html?pagewanted=all&_r=0>

91 Women's Wear Daily magazine, "Fashion's Safety Rules Attract Global Focus", 21 September 2012, <http://www.hballp.com/images/news/tengram.pdf>

92 Labour Start Campaigns, "Pakistan: Make textile factories safe", no date <http://www.labourstartcampaigns.net/show_campaign.cgi?c=1570>

On the 22nd of September, the Workers Rights Movement (WRM) was formed, consisting of 70 trade unions, labour and human rights organisations, youth, women, and student organisations, and political parties, amongst others. The WRM aims to launch a movement for the implementation of labour laws, compensation to the families of the deceased workers, compensation for the injured and for other workers who lost their livelihoods due to the fire, closure of the factory, and the arrest of factory owners and confiscation of their assets and bank accounts.[93]

Based on news reports, worker interviews and labels found on-site, CCC contacted brands and retailers. On 17 September 2012, CCC released information that KIK had been found as a major buyer, yet the company refused to take action with respect to compensation, disclosing audit reports and engaging with worker representatives in Pakistan.[94] This was followed by an international campaign aimed at KiK, launched on 16 October 2012. The demands, developed with the Workers Rights Movement, are that KIK ensures transparency, compensation and employment, preventive measures and supports an independent investigation (see box 2).[95]

On the 1st of October 2012, prior to the SAI Advisory Board Meeting on 9-11 October, international labour groups sent a letter to SAI, followed by a press release, demanding disclosure of audit reports and buyer names.[96] In an answer to this letter, SAI and SAAS denied any responsibility for the fire citing confidentiality agreements as the reason neither they nor the Italian auditing company, RINA, can share any information they possess about the factory.[97]

[93] Labor Rights Blog, "Worker Rights Movement Formed, Launching Movement Against Factory Fire Culprits", no date < http://laborrightsblog.typepad.com/international_labor_right/2012/09/worker-rights-movement-formed-launching-movement-against-factory-fire-culprits.html > (18 February 2013)

[94] Clean Clothes Campaign, " Pakistan fire victims producing for German low-cost retailer KIK", 17 September 2012 http://www.cleanclothes.org/media-inquiries/press-releases/pakistan-fire-kik

[95] Clean Clothes Campaign, "Urge KIK to identify buyers and pay compensation to Pakistan fire victims", 16 October 2012 < http://www.cleanclothes.org/urgent-actions/kik-appeal >

[96] AFL-CIO, Clean Clothes Campaign, International Labor Rights Forum, Maquila Solidarity Network, United Students Against Sweatshops and Workers Rights Consortium, "letter to SAI", 1 October 2012.

[97] SAI, "Response'to'ILRF,'CCC,'WRC,'MSN,'NTUF'joint'press'release,' "Factory'certification'body'fails'to'assist'victims'of' Karachi'factory'fire'", 15 October 2012.

Box 2: Demands towards KiK

- Transparency: disclose audit reports of UL Responsible Sourcing (hired by KIK) and disclose the names of other buyers sourcing from Ali Enterprises and with which KIK claims to be negotiating.

- Compensation, wages and employment to victims: negotiate directly with the Workers Right Movement to ensure all the injured workers receive full medical care without charge, that wages continue to be paid, that the families of the dead workers and the injured receive full compensation and a pension covering future loss of income, and that survivors will be provided employment at other KiK supplying factories.

- Preventive measures: take measures to prevent future disasters. This includes a full safety review of all suppliers involving worker representatives; providing health and safety training for all workers; ensure that workers can freely organize and express themselves; publicly disclose the supplier list; ensure all workplaces are registered and that all workers have a contract; pay prices that allow for all necessary remediation measures to be undertaken.

- Investigation into the cause of the fire: actively support and participate in a full, independent and transparent investigation into the cause of the fire. This investigation should look at the failure of government, owner and buyers to prevent, detect or remediate the violations of occupations health and safety rules and labour laws that led to the death of more than[one hundred workers. This investigation should also yield a complete list of those who died in the factory fire.

Judicial actions

The police arrested factory owners Arshad Bhaila and Shahid Bhaila after their pre-arrest bail applications were rejected on October 6, 2012. Abdul Aziz Bhaila, father of the Bhaila brothers and co-owner of the factory, was granted bail due to health issues.[98] Police in Karachi had registered a murder case against the owners. However, two weeks after Prime Minster Mr. Ashraf recommended in an address to Karachi business leaders on 29 December 2012 that the main murder charge against the Bhaila brothers – one that carries a potential death sentence – would be withdrawn, a senior police official applied with the court to have the charges dropped.[99] The court has accepted a petition from labour rights groups, including PILER, to prevent removal of these charges.

[98] The Express Tribune, “Court calls up prosecutor to argue Baldia factory owners’ bail plea”, 22 January 2013 < http://tribune.com.pk/story/497140/court-calls-up-prosecutor-to-argue-baldia-factory-owners-bail-plea/ >

[99] The News York Times, “Pakistan’s Premier Intervenes in Fire Inquiry”, 24 January 2013 <http://www.nytimes.com/2013/01/25/world/asia/pakistans-ashraf-intervenes-in-fatal-fire-investigation.html?_r=1&>

On the 11th of February 2013 the Sindh High Court awarded bail to all the accused. Factory owners Arshad Bhaila and Shahid Bhaila had to submit security bonds worth RS 1 million while the other accused had to submit bonds worth RS. 2000.[100]
On 18 September 2012, PILER, together with other CSOs, trade unions and individuals,[101] filed a petition with the Sindh High Court. The petition pleas for the following: (1) establish a judicial commission that should investigate the causes of the fire; assign responsibility and liability; determine compensation for families of the victims and; issue recommendations for the avoidance of industrial tragedies; (2) demand reasonable and appropriate financial compensation for the victims to be paid by Ali Enterprises, the Government of Pakistan and the Government of Sindh; (3) conduct a criminal trial against the accused (factory owners) and; (4) Direct the Government of Sindh and the Provincial Labour Ministry to immediately conduct a survey and inspection of all labour establishments, factories and industrial units in the Sindh Province, in order to ensure the implementation of fire and safety provisions under the labour laws and to submit a comprehensive report in this regard to the court.[102]

Follow-up actions by SAI and SAAS

In a response to a draft version of this report SAI, as the SA8000 standard owner, wrote that it has identified numerous revisions and changes to improve the current accreditation and certification methods and requirements. SAI wrote that "a wide range of changes in the certification and the accreditation system are necessary to avoid the award of certificates to facilities not actually in compliance with SA8000." Risk factors must be identified in order to provide potential indicators of non-conformance. No further specification on what these changes would include has been given. The SA8000 Standard and Guidance Document is being reviewed and amended, with key focus on the health and safety element.[103] SAI further writes that "one of the many learnings" for SAI is that "the identification of buyers at certified factories is of such great interest to stakeholders that any such information in an SA8000 audit must be verified". It remains unclear if this information, if available, will be made public. SAI adds that it will be working with SAI corporate member companies on these issues and will call on governments to enforce their labour laws.[104]

[100] The Express Tribune, "Baldia factory fire: SHC grants bail to all accused", 11 February 2013 <http://tribune.com.pk/story/505684/baldia-factory-fire-shc-grants-bail-to-all-accused/>
[101] Pakistan Fisher Folk Forum, National Trade Union Federation, Hosiery Garments Textile, Human Rights Commission of Pakistan, and legal activist Javed Iqbal Burki.
[102] South Asia Citizens Web, "Pakistan: Labour and rights groups petition the Sindh High Court on the Baldia Town factory fire incident on Sept 11, 2012, in Karachi", 23 September 2012 <http://www.sacw.net/article2873.html>
[103] SAI and SAAS, correspondence with SOMO and CCC, 26 February 2013.
[104] SAI and SAAS, correspondence with SOMO and CCC, 26 February 2013.

SAI also said it has begun working with its Advisory Board and SAAS to undertake an extensive investigation in Pakistan – "not just of Ali Enterprises, but also of the quality and reliability of the other SA8000certificates there." According to SAI the investigative efforts in Pakistan will include an on-site fact finding investigation in the conditions of the Ali Enterprises factory prior to the fire, as well as oversight of the investigation by RINA of the circumstances regarding the issuance of the SA8000 certificate to Ali Enterprises, and oversight of internal review and assessment of management by RINA of Pakistan activities. SAAS has commissioned AKUT to undertake unannounced fire safety visits to 17 certified factories to understand the state of the certified facilities in Pakistan. To date no outcomes of this investigation have been shared.

The number of unannounced SA8000 audits in high-risk countries will be increased. In addition SAAS will issue requirements for more in-depth stakeholder consultations and more rigorous requirements for health and safety and management. Because of these anticipated revisions, SAAS temporarily suspended consideration of all new accreditation applications. The SAAS website offers information about RINA. RINA's scope of accreditation is currently described as "global, excluding Pakistan". SAAS mentions that two Certification Bodies are still active in Pakistan. SAAS has notified these Certification Bodies that no new SA8000 certificates are to be issued until SAAS has concluded its analysis. SAAS has also notified the CBs that they should conduct unannounced fire safety inspections at all existing SA8000 clients. SAAS provides oversight of these fire safety visits to certified facilities.

According to SAAS, one of the major learnings from the Ali Enterprises fire is that subcontracting in high risk countries such as Pakistan carries too high a risk. Therefore, SAAS has decided to prohibit any and all subcontracting of certification-related activity in a specified set of high risk countries. In addition, oversight of certification bodies in high risk countries will be increased. It is unclear how this will be organised. SAAS wrote that a long-term and comprehensive review of the audit system has begun. The outcome of the investigations and actions taken in Pakistan shall be taken into account in determining further actions and/ or policy changes.[105] Following the Ali Enterprises factory fire, UNI Global Union decided to step down from the SAI Advisory Board out of dissatisfaction with the way SAI followed up the case. With this resignation UNI Global Union is distancing itself from the SAI certification system.

Worldwide Responsible Accredited Production (WRAP)

In response to the fire, WRAP announced that it will conduct fire safety awareness trainings throughout Pakistan, in cooperation with the Pakistan Readymade Garments

[105] Social Accountability Accreditation Services, "SAAS Statement: Status of Activities in Pakistan ", 8 November 2012 < http://www.saasaccreditation.org/news.htm> (15 January 2013).

Manufacturers and Exporters Association (PRGMEA).[106] In response to a draft version of this report, WRAP wrote to SOMO and CCC that five fire safety awareness sessions took place in Pakistan in December 2012.

The trainings are specifically aimed at fire prevention, through understanding and conducting factory risk assessments. WRAP further explained that the training programme was developed almost two years ago when WRAP opened an office in Bangladesh and it became clear that fire safety was becoming an increasingly significant concern.[107]

3.6. Compensation

End of October 2012, labour organisations including local labour rights group PILER calculated that for fair and just compensation based on international standards and good practice at least 20 million Euro will be needed, covering damages as well as loss of income, for the families of all deceased.[108] These calculations were based on 50% of a wage that minimally provides for a basic income for a family, or Rs 20,000 per month[109] for 35 years, and a lump sum of Rs. 3.3 million for pain and suffering. If inflation correction would be taken into account,[110] the total amount of compensation would be three times higher. This is taking the official death toll of 262 victims as a basis.

So far, however, discussions about victim compensation have advanced very slowly and are highly uncoordinated. To date, a number of the injured workers and the families of at least 42 unidentified dead workers have still not received any financial compensation at all. Under Pakistan's Workers Welfare Ordinance, a death grant is provided to the family of a worker who died as a result of a work-related accident or disease. In May 2012, the amount to be paid to the family of the deceased worker was set at Rs. 500,000 (USD 5,120). This amount is only paid out if the worker is registered with the Employees Old-Age Benefit Institution (EOBI) or with the Social Security Institute.[111] Because the great majority of workers at Ali Enterprises were not registered with the EOBI or with the Social Security Institute, the families of the deceased workers would not be eligible for this compensation scheme. The fact that

[106] WRAP website, WRAP Blog, "Preventing Tragedy", 4 December 2012, <http://www.wrapcompliance.org/blog/uncategorized/preventing-tragedy.html>

[107] WRAP, email correspondence with SOMO and CCC, 25 February 2013.

[108] Clean Clothes Campaign, "Textile Discounter KIK makes cheap offer to victims of Pakistan garment factory fire", 30 October 2012 <http://www.cleanclothes.org/media-inquiries/press-releases/textile-discounter-kik-makes-cheap-offer-to-victims-of-pakistan-garment-factory-fire>

[109] This amount is based on Asian Floor Wage calculations that 540 PPP is the floor wage for garment workers in 2012 <http://www.asiafloorwage.org/>

[110] Based on inflation percentages provided by Index Mundi < http://www.indexmundi.com/>

[111] Paycheck.pk website, "Workers Welfare Fund", last updated 28 June 2012 < http://www.paycheck.pk/main/labour-laws/workers-welfare-fund >

most workers were not registered, as well as the fact that 42 bodies have not been identified to date, is hampering compensation efforts.

Order by the Sindh High Court

On 29 January 2013, the Sindh High Court set up a commission to distribute compensation to the legal heirs of the Ali Enterprises factory fire victims. The total amount of the compensation was established to be Rs.167.5 million (USD 1,7 million). The counsel of the factory owners Amir Raza Naqvi said that compensation worth Rs. 61.8 million (USD 629,280) would be taken from the accounts of the factory owners. The court observed that the compensation process could be concluded within two months.[112]

Government compensation

Different Pakistan governmental bodies have, over the past months, announced to pay out compensation to families of deceased works and to injured workers.To date, it is still unclear which of these promises have been fulfilled.

On 22 September 2012, Prime Minister Raja Pervez Ashraf reportedly issued cheques of Rs. 400,000 (around USD 4,100) to compensate 210 families of deceased workers. On the same occasion, Chief Minister Syed Qaim Ali Shah of the Sindh provincial government issued cheques of Rs. 300,000 (USD 3,069) for each family of these deceased workers. These families thus received Rs. 700,000 each in total. In addition, in total 15 injured workers received cheques of Rs 100,000 (around USD 1,000) from the Chief Minister, as well as cheques of Rs. 50,000 (USD 511) from the Sindh provincial government. [113] The latter is, however, refuted by local labour group PILER, which stated that as of 6 March 2013, the 15 injured workers only received Rs. 100,000.

On 14 September 2012, leader of the Pakistan Muslim League, Mian Nawaz Sharif, announced that the Punjab Government would issue Rs. 300.000 (USD 3,069) in aid to the victims' families.[114]

The Prime Minster further directed the Federal Labour and Manpower Ministry to give Rs. 500.000 (USD 5,120) each to the heirs of the workers killed in the fire.[115]

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[112] The News, "SHC forms body to distribute compensation", 30 January 2013 <http://www.thenews.com.pk/Todays-News-4-157077-SHC-forms-body-to-distribute-compensation >

[113] Daily Times, "PM distributes cheques among factory fire victims' heirs", 23 September 2012 < http://www.dailytimes.com.pk/default.asp?page=2012\09\23\story_23-9-2012_pg12_1 >

[114] Dawn.com, "Factory fire tragedy: Punjab government announces Rs. 3 lacs aid package for victims", 14 September 2012 < http://dawn.com/2012/09/14/factory-fire-tragedy-punjab-government-announces-rs-3-lacs-aid-package-for-victims/ >

[115] Dawn.com, "Compensation cheques given to families of factory fire victims", 24 September 2012 < http://dawn.com/2012/09/24/compensation-cheques-given-to-families-of-factory-fire-victims/ >

Besides the above mentioned lump sum payments, the Old-Age Benefit Institution (EOBI) announced it would pay a monthly Rs. 3,600 (USD 36) pension to injured workers and to families of deceased workers.[116] The Sindh Employees Social Security Institute announced that they will pay the treatment costs of workers involved in the tragedy.[117]

To date, there is no information available that these different compensation amounts indeed all have been paid out. What is clear, however, is that many injured workers and families of the deceased have not received any compensation at all.

Buyers' compensation: KiK

At the end of October 2012, KiK announced that it would pay out a combined USD500,000 (€383,700) to the families of the deceased. Counting 259 victims, this means an amount of around USD1,930 per victim.[118] Der Spiegel quotes Nasir Mansoor of Pakistan's National Trade Union Federation (NTUF): "That's not that much at all." "Furthermore, we don't know when and how the payment is supposed to come through."[119]

Civil society organisations (among them PILER and CCC) continued to pressurise KiK to come up with an adequate compensation scheme. Subsequently, on 5 January 2013, PILER announced that it had signed a Memorandum of Understanding with KiK regarding compensation for the victims of the factory fire. The agreed compensation scheme consists of two phases. In the first phase, compensation will be given to families of deceased workers that have thus far not received any compensation from the government. KiK has agreed to extend USD1 million to these families.

KIK also expressed a willingness to compensate workers who faced severe injuries in the fire leading to disability and loss of future employment. The remaining workers will be assisted in the next step after a compensation amount is agreed upon through a consensus between all stakeholders including employers and other international companies.[120] PILER announced that it will be filing a petition with the Sindh High Court and request for the establishment of an independent commission to oversee the compensation process. In addition, KiK announced it will provide for USD 250,000 for training and prevention measures.[121]

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[116] Pakistan Institute of Labour Education and Research, "Ali Enterprises Factory Fire Case: Key Information", 6 October 2012.
[117] Ibid.
[118] Der Spiegel, "The Value of a Pakistani Worker - Discounter Offers $1,930 Per Victim in Factory Fire", 23 October 2012.
[119] Ibid.
[120] Pakistan Institute of Labour Education and Research, "Compensation for Ali Enterprises Victims: Agreement with German Buyers", statement on PILER-KIK MOU, 5 January 2013.
[121] KiK, email correspondence with SOMO and CCC, 26 February 2013.

Donations

The Bahria Town Group, a local real estate company, apparently motivated by charity considerations, has donated amounts of Rs. 200,000 (USD 2,046) to 178 families. In addition the Bahria Town Group donated amounts of Rs. 100,000 (USD 1,023) to seven injured workers.[122]

3.7. Conclusions

This case demonstrates how both the government of Pakistan and corporate actors involved failed to meet their respective duty to protect and their responsibility to respect workers' rights. Tragically, this has led to the death of almost 300 workers. Dozens other suffered injuries and loss of income. To date, numerous families still await compensation.

Failure to prevent the fire

Factory management failed to provide workers with a safe working environment. Equally, the Pakistani government failed to enforce existing laws and regulations regarding safe workplaces. In Sindh Province, where Karachi is located, regulatory labour inspections are repetitively put off. Instead, by promoting and subsidizing private certification schemes, the government increasingly relied on commercial certification bodies to guarantee proper workplace conditions. Ali Enterprises had been awarded the SA8000 certification only three weeks before the fire. Safety risks, such as barred windows, the absence of fire alarms and sprinklers, locked exit doors, etc. went unnoticed by the auditors. Instead, auditors relied on documents that falsely stated workers participated in fire safety trainings.

The example of KiK, to date the only buyer identified at Ali Enterprises, also shows the weaknesses of social auditing. While KiK did detect fire safety risks at its supplier already in 2007, the company did not act adequately upon these risks. It remains unclear how UL Responsible Sourcing, the auditing company commissioned by KiK, came to the conclusion that all earlier detected code violations had been resolved in December 2011 (date of the last auditing report by UL responsible Sourcing). KIK has not provided any information about how conditions have been monitored or assessed between December 2011 and September 2012.

In their response to a draft version of this report SAI and SAAS acknowledged that "a wide range of changes in the certification and the accreditation system are necessary to avoid the award of certificates to facilities not actually in compliance with SA8000".The actions proposed by SAI/SAAS so far, predominantly focus on

[122] Pakistan Institute of Labour Education and Research, "Ali Enterprises Factory Fire Case: Key Information", 6 October 2012.

improving the existing system. The case shows that the audit firms used by SAI lack sufficient knowledge about safety conditions in garment factories. This has been acknowledged by SAI, SAAS and garment brands. However, increasing the competence of general auditors on safety is not expected to solve this issue. What is needed is auditors with a sound technical background that are supervised by independent safety experts.[123] They furthermore need to operate within a system that is transparent, enforceable, and allows for workers to directly be involved. The SAI/SAAS responses do not clarify how the existing system will be altered. SOMO and CCC fear SAI/SAAS show no intention to fundamentally alter their existing system. Instead they seem are just to be looking for a technical fix by restricting the subcontracting of audits within the confines of high-risk countries.

While SAI and SAAS expressed an intention to increase stakeholder involvement, they fail to deal with the issue of flawed freedom of association in Pakistan. Factory workers are the best placed to provide credible day-to-day observations about working conditions and implementation of safety measures. As long as garment workers in Pakistan cannot organise, engaging stakeholders on international level will not suffice.

Failure to provide full redress to victims

Factory management failed to provide employees with a contract and to register most workers with social security institutions as only 190 out of the estimated 2,000 workers were registered with the EOBI. The Pakistan government failed to assure that companies adhere to national labour laws. The fact that the majority of workers at Ali Enterprises were not registered as such makes it difficult for them to prove they had an employment relationship with the factory in order to be eligible for compensation or covering of unpaid wages and receiving severance benefits from the moment their employment relationship was terminated because of the closure of the factory. In addition, the fact that most workers were not registered in combination with the unrecognisable state of many bodies makes identification of deceased workers extremely difficult.

Victim compensation is going at a very slow pace and is highly uncoordinated. Compensation offered is not in line with to international standards to cover for loss of future income. To date, some of the injured workers as well as the families of the 42 unidentified dead workers have still not received any financial compensation at all. Months after the fire, only 210 families out of the official total of 262, have received an amount of USD 7,169 each from different government bodies which is ten times lower than what is estimated to be a fair compensation amount. Other promises for compensation have not yet been fulfilled. At first, KiK announced a unilaterally decided upon compensation plan. Only after extensive campaigning by local and

[123] Garrett Brown, “The record of failure and fatal flaws of CSR factory monitoring”, February 2013

international civil society organisations, KiK reconsidered this plan and agreed to discuss compensation with Pakistani labour groups. SAI and SAAS have not yet come forward with any compensation plans.

Both KiK and SAI/SAAS have refused to release audit reports and other information obtained through the process of auditing, such as any observations about possible other buyers. Where KiK and SAI/SAAS maintain that audit processes are not organised to yield such information, SOMO and CCC stress that disclosure of any available information is crucial is order to enable workers to get access to redress.

4. Tazreen Fashions Limited

4.1. Factory fire

A horrific fire broke out at the Tazreen Fashions factory on 24 November 2012, killing at least 112 factory workers. The fire broke out at around 6.30pm, a time when most workers had already left the premises, according to a garment industry official.[124] Around 600 workers were present when the fire started, he added. According to Director Mohammed Shahjahan, 1,137 workers were present on the day of the incident.[125] The fire began on the ground level at the storage facility where fabrics and yarns were stored.

The flames spread quickly. Although the fire alarm started, management staff ordered the workers on the various factory floors to keep working.[126] The staff told workers that nothing had happened, at the same time as turning up the radio's volume. When panic started to spread, workers on the upper floors found out that it had become impossible to escape through the main exit, located on ground level where the fire had started. The lights failed and the factory quickly filled with smoke and heat, making it almost impossible for the workers to find their way out.

In addition, survivors told Bangladeshi labour rights NGO Ain o Shalish Kendra (ASK) that management staff had locked the gates at several floors of the building.[127] Many of the workers jumped to their deaths trying to escape from the burning six storey building. Others, unable to escape the blaze, were burned alive. Incident reports claim the fire injured between 100 and 300[128] workers that day of which, according to the BGMEA, 48 are long-term injured.[129]

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[124] The New York Times, "Fatal Fire in Bangladesh Highlights the Dangers Facing Garment Workers", 25 November 2012 <http://www.nytimes.com/2012/11/26/world/asia/bangladesh-fire-kills-more-than-100-and-injures-many.html?_r=0>

[125] ibid

[126] Odhikar, "A bloodstained garment sector: impunity of government officials and factory owners", 5 December 2012, <http://www.odhikar.org/documents/2012/FF_Report_2012/Other_2012/52_Blood_Stained_Garment_Sector_Dhaka_RMG_EN_2012.pdf>

[127] Ain O Salish Kendra (ASK), "Investigation Unit Report - Garment Factory Fires", no date <http://www.askbd.org/web/wp-content/uploads/2012/11/ASK%20Investigation%20Report%20-%20Garments%20Factory%20Fire%20-%2024%20November%2020121.pdf>, (10 January 2013)

[128] Bangladesh Labour Welfare Foundation (BLF), "Enquiry report of BLF and Bangladesh Textile and Garment Workers League (BTGWL) on the Tazreen Fashions factory fires", accessed through Clean Clothes Campaign Urgent Appeals database.

[129] CCC, internal overview casulaties/compensation Tazreen, 3 March 2013.

The emergency call came in at around 7pm; 30 minutes after the inferno had started, according to a senior station officer with the Dhaka fire department.[130] His units arrived at the scene at 7.19pm. By then, the fire had already reached the fifth floor of the factory.

Most of the victims were women, according to a government probe report.[131] Almost half of the victims were burned beyond recognition and were buried under government supervision after DNA samples were taken. A police official later disclosed that they had buried 53 unidentified bodies on 27 November. Six men and 43 women were among the bodies. Four of the 53 bodies could not be identified according to their gender.[132] By 16 February 2013, 43 out of the 53 unidentified bodies had been identified.[133]

What caused the fire is topic of debate. The first reports suggested the fire was started by an electrical short circuit.[134] Over 80% of all factory fires in Bangladesh are due to faulty wiring.[135] On 17 December, a Bangladesh government committee issued a 214-page report on the incident.[136] The panel called the incident "*an act of sabotage*."[137] The head of the government committee, Main Uddin Khandaker, added; *"We're sure it was an act of sabotage, but it needs further investigation by an intelligence or police agency to ascertain who was behind this act of sabotage."* He later added; *"There was no possibility of fire originating from an electric short-circuit, as there was no electric wire close to the place. It came from outside."*[138]

[130] Odhikar, "A bloodstained garment sector: impunity of government officials and factory owners", 5 December 2012, <http://www.odhikar.org/documents/2012/FF_Report_2012/Other_2012/52_Blood_Stained_Garment_Sector_Dhaka_RMG_EN_2012.pdf>

[131] CNN, *Panel calls Bangladesh factory fire sabotage, says owner should be tried*, <http://edition.cnn.com/2012/12/17/world/asia/bangladesh-factory-fire/index.html>, (14 January 2013).

[132] Odhikar, *A bloodstained garment sector: impunity of government officials and factory owners*, December 5, 2012, <http://www.odhikar.org/documents/2012/FF_Report_2012/Other_2012/52_Blood_Stained_Garment_Sector_Dhaka_RMG_EN_2012.pdf>, (10 January 2013)

[133] New age, "6 more Tazreen fire victims identified " , 16 February 2013 http://www.newagebd.com/detail.php?date=2013-02-16&nid=40255#.UR

[134] The New York Times, "Fatal Fire in Bangladesh Highlights the Dangers Facing Garment Workers ", 25 November 2012 <http://www.nytimes.com/2012/11/26/world/asia/bangladesh-fire-kills-more-than-100-and-injures-many.html?_r=0>

[135] Clean Clothes Campaign, "Bangladesh factory fire: brands accused of criminal negligence", 25 November 2012 < http://www.cleanclothes.org/news/bangladesh-factory-fire-brands-accused-of-criminal-negligence >

[136] The Daily Star, Sabotage, really?, <http://www.thedailystar.net/newDesign/news-details.php?nid=261703>, (14 January 2013).

[137] CNN, "Panel calls Bangladesh factory fire sabotage, says owner should be tried", 18 December 2012 <http://edition.cnn.com/2012/12/17/world/asia/bangladesh-factory-fire/index.html>

[138] Ibid.

Worker rights movement ASK and the Bangladesh Centre for Workers Solidarity criticised the report outcome as the report failed to point out who was responsible for the sabotage, how and why.[139] The Bangladesh Centre for Workers Solidarity rejected the claim by Mr. Khandaker that there was no possibility of short-circuiting. The director of Bangladesh Centre for Workers Solidarity visited the factory and claimed he had seen "*a sub-station and a generator only three feet off the warehouse on the ground floor.*"[140]

Several investigation reports from civil society organisations repeat the same conclusions on what has caused the high death toll and fire risks[141]:

- The building code was not followed during construction of the building;
- The factory only had three narrow staircases for the workers; the rest of the staircases had been removed from the inside of the ground floor;
- There were no emergency exits or stairways;
- There were insufficient fire defense materials, most of them were unused. Most of the workers were unable to use those materials;
- There were no automated fire defense systems;
- There were no sufficient water sources inside or outside of the factory;
- The ground floors were being used as a storage facility which was unauthorized and induced rapid spreading of fire;
- Two high voltage electricity transformers were located at the ground floor;
- The stock of spin and fabric was located close to the high voltage transformer;
- The size of the main entrance was not suitably sized for the number of employees and size of the building;
- Gates were locked;
- The front entrance and other side entrances of the factory were very congested.

4.2. Company profile

Tazreen Fashions Limited (hereafter Tazreen Fashions) is a garment manufacturer located in Ashulia, Dhaka in Bangladesh. Tazreen Fashions was incorporated in March, 2009.[142] The factory opened its doors in May 2010.[143] At the time of the

[139] The Daily Star, "Sabotage, really?",19 December 2012 <http://www.thedailystar.net/newDesign/news-details.php?nid=261703>

[140] Ibid.

[141] Ain O Salish Kendra (ASK), "Investigation Unit Report - Garment Factory Fires", no date <http://www.askbd.org/web/wp-content/uploads/2012/11/ASK%20Investigation%20Report%20-%20Garments%20Factory%20Fire%20-%2024%20November%2020121.pdf>, (10 January 2013) and AMRC, "Multi Stakeholder consultation on Safe Work at Garments Factories in Bangladesh; Lessons Learned from Tazreen Fire Accidents – Challenges and Way Forward",

[142] Tuba Group website, "Tazreen Fashions company profile", no date

factory fire, Tazreen Fashions produced T-shirts, fleece vests and polo shirts that were exported to various European countries, as well as to the US. The company reported an annual turnover of approximately US$36 million.[144]

Ownership

Tazreen Fashions is part of the Tuba Group, which is a holding company that includes 13 garment manufacturers, all located in Bangladesh.[145] The group employs nearly 7,000 workers and has the capacity to produce near 300.000 garments a day. According to the company it is "strictly maintaining safety, health and hygiene provisions as per ILO's and Bangladesh labour law's rules and regulation.[146] The Managing Director of Tuba Group is Delowar Hossain. At the time of the fire, Mohamed Shahjahan was director at Tazreen Fashions.

Location/premises

The Tazreen Fashions factory is located in Nischintapur, Ashulia, Dhaka, Bangladesh. It is a nine storey building with a total floor surface of 13,935 m^2.[147] A state official told the New York Times that, at the time of the fire, the three top floors were under construction[148], due to a predicted increase in orders by the management. A Workers' Welfare Officer at Tazreen Fashions told investigative reporters after the incident that the factory; *"was approved by the fire service and civil defence. She complained that no one from the Chief Inspector of Factories and Establishment ever inspected the factory although it is in provisions of the law. Instead, sparing a small amount of money for their "expenses" was enough to get the application approved on mobile phone."*[149] BBC reporters found that the factory had permission to work on only three of the nine floors, while employees were working on at least six floors.[150] Sukkur

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<http://www.tubagroupbd.net/Profile/FACTORY%20PROFILE%20OF%20TUBA%20GROUP.pdf>, (7 January 2013).

143 The New York Times, "Fatal Fire in Bangladesh Highlights the Dangers Facing Garment Workers", 25 November 2012 <http://www.nytimes.com/2012/11/26/world/asia/bangladesh-fire-kills-more-than-100-and-injures-many.html?_r=0>

144 Tuba Group website, "Tazreen Fashion Limited", no date (16 January 2013).

145 Tuba Group website, "Tazreen Fashions company profile", no date <http://www.tubagroupbd.net/Profile/FACTORY%20PROFILE%20OF%20TUBA%20GROUP.pdf>, (7 January 2013).

146 Ibid.

147 Ibid.

148 The New York Times, "Fatal Fire in Bangladesh Highlights the Dangers Facing Garment Workers", 25 November 2012 <http://www.nytimes.com/2012/11/26/world/asia/bangladesh-fire-kills-more-than-100-and-injures-many.html?_r=0>

149 Odhikar, "A bloodstained garment sector: impunity of government officials and factory owners", 5 December 2012, <http://www.odhikar.org/documents/2012/FF_Report_2012/Other_2012/52_Blood_Stained_Garment_Sector_Dhaka_RMG_EN_2012.pdf>

150 BBC News, "Bangladesh Tazreen factory fire was sabotage – inquiry", 17 December 2012 <http://www.bbc.co.uk/news/world-asia-20755952>

Mahmud, Chairman of the National Coordination Committee for Workers' Education, also mentioned that the owners of Tazreen had permission for operations in a three storey building.[151]

Tazreen Fashions factory, after the fire.[152]

Workforce

As with Ali Enterprises in Karachi, there is uncertainty about the number of workers employed at the Tazreen Fashions factory in Dhaka. Company documents state that 1,700 people were employed by the company.[153] However, company director, Mohammed Shahjahan, told reporters that Tazreen Fashions only employed 1,163 workers.[154] KiK wrote that its agency had informed them that 1,180 were employed at Tazreen Fashions.[155] The Bangladesh Labour Welfare Foundation reported that as

[151] AMRC, "Multi Stakeholder consultation on Safe Work at Garments Factories in Bangladesh; Lessons Learned from Tajreen Fire Accidents – Challenges and Way Forward", January 7, 2013, <http://amrc.org.hk/system/files/OSHE_RMG_consultation.pdf>

[152] Photo retrieved from Clean Clothes Campaign website < http://www.cleanclothes.org/urgent-actions/tazreen-backgrounds >

[153] Tuba Group website, "Tazreen Fashions company profile", no date <http://www.tubagroupbd.net/Profile/FACTORY%20PROFILE%20OF%20TUBA%20GROUP.pdf>, (7 January 2013).

[154] Odhikar, "A bloodstained garment sector: impunity of government officials and factory owners", 5 December 2012, <http://www.odhikar.org/documents/2012/FF_Report_2012/Other_2012/52_Blood_Stained_Garment_Sector_Dhaka_RMG_EN_2012.pdf>

[155] KiK, email correspondence with SOMO and CCC, 26 February 2013.

many as 1800 people were employed[156] and the New York Times[157] reported 1,500 people working at the factory before the incident. The Parliamentary Standing Committee on Labor, that is investigating the incident, confirmed that Tazreen Fashions maintained records of the workers it employed, but did not provide a decisive answer to the question of the number of people employed.[158]
Most of the workers were young rural women with little education, according to New York Times reporters.[159] The employees reportedly earned around USD45 per month.[160] Several workers told Odhikar, a Bangladesh human rights NGO that investigated the incident, that they often received their salary late and that the amount they received was less than the amount they had agreed upon.[161] There was no registered factory union at Tazreen Fashions. However national trade union federations, including the National Garment Workers Federation (NGWF) and the Bangladesh Garment & Industrial Workers Federation (BGIWF), had registered members among the Tazreen employees.

4.3. Buyers

Tazreen Fashions produced for the following brands and retailers: C&A (Germany), Walmart (US), Li & Fung (Hong Kong), Dickies (US), Sears (US), Edinburgh Woolen Mill (UK), Hipercor (Spain), Enyce (US), Karl Rieker (Germany), KiK (Germany), Piazza Italia (Italy), Delta Apparel (US) and Teddy Smith (France). Orders were placed either directly with the factory, or through the Tuba Group, other suppliers and/or agents.[162]

C&A

Shortly after the incident, C&A labels were found in the factory. In addition, a factory worker told the New York Times reporters she was working on C&A clothing when the

[156] Bangladesh Labour Welfare Foundation (BLF), "Enquiry report of BLF and Bangladesh Textile and Garment Workers League (BTGWL) on the Tazreen Fashions factory fires", accessed through Clean Clothes Campaign database.
[157] The New York Times, "Fatal Fire in Bangladesh Highlights the Dangers Facing Garment Workers", 25 November 2012 <http://www.nytimes.com/2012/11/26/world/asia/bangladesh-fire-kills-more-than-100-and-injures-many.html?_r=0>
[158] The Daily Star, "JS body on Tazreen Fashions fire probe", 9 January 2013 < http://www.thedailystar.net/newDesign/news-details.php?nid=264370>
[159] New York Times, "Horrific fire revealed a gap in safety for global brands", 6 December 2012 <http://www.nytimes.com/2012/12/07/world/asia/bangladesh-fire-exposes-safety-gap-in-supply-chain.html?pagewanted=all>
[160] Ibid.
[161] Odhikar, "A bloodstained garment sector: impunity of government officials and factory owners", 5 December 2012, <http://www.odhikar.org/documents/2012/FF_Report_2012/Other_2012/52_Blood_Stained_Garment_Sector_Dhaka_RMG_EN_2012.pdf>
[162] Evidence based on labels found on-site immediately after the fire , in addition to company statements to CCC or media (CCC Urgent Appeals database)

fire started.[163] On 25 November 2012, C&A confirmed the contractual relation with Tazreen Fashion, C&A had commissioned the company to manufacture 220,000 sweaters to be delivered to C&A Brazil between December 2012 and February 2013."*[164]*

Walmart

Walmart labels were also found in the burned-down factory.[165] Two days after the fire, on 26 November, Walmart said in a statement that the factory was no longer authorised to produce merchandise for Walmart. The company declined to say when exactly it had stopped working with Tazreen and for what reasons. According to Walmart, another supplier, which was later identified as Success Apparel, had subcontracted work to Tazreen "without authorization and in direct violation of our policies".[166]

Documents from mid-September, found in the factory after the fire, indicate that five of the 14 production lines were making apparel for Walmart.[167] There is documented evidence that subcontracting contracts for Walmart orders came to Tazreen Fashions and Tuba group through different Walmart suppliers, including IT Apparel in Dhaka (an agent used by one of Walmart's former suppliers[168]), Success Apparel in New York through Nimmi Apparels in Dhaka (belonging to Simco Group), and Topson Downs in Culver City, Canada) to Bismallah Sourcing in Dhaka.[169]

Li & Fung

On 25 November, a day after the fire, Tazreen's owner said it was producing for Li & Fung, among other brands. Li & Fung, a Hong Kong based international trading group

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[163] New York Times, "Horrific fire revealed a gap in safety for global brands", 6 December 2012 <http://www.nytimes.com/2012/12/07/world/asia/bangladesh-fire-exposes-safety-gap-in-supply-chain.html?pagewanted=all>

[164] C&A corporate responsibility website, "C&A statement on fire at Tazreen Fashion in Bangladesh", 25 November 2012 <http://www.candacr.com/nl/2012/11/25/ca-statement-in-fire-at-tazreen-fashion-in-bangladesh/>

[165] New York Times, "Horrific fire revealed a gap in safety for global brands", 6 December 2012 <http://www.nytimes.com/2012/12/07/world/asia/bangladesh-fire-exposes-safety-gap-in-supply-chain.html?pagewanted=all>

[166] The New York Times, "Documents Reveal New Details About Walmart's Connection to Tazreen Factory Fire", 10 December 2012 < http://www.nytimes.com/2012/12/11/world/asia/tazreen-factory-used-by-2nd-walmart-supplier-at-time-of-fire.html?_r=0 >

[167] The New York Times, "Documents Indicate Walmart Blocked Safety Push in Bangladesh", 5 December 2012 <http://www.nytimes.com/2012/12/06/world/asia/3-walmart-suppliers-made-goods-in-bangladeshi-factory-where-112-died-in-fire.html?_r=0>

[168] Walmart, correspondence with SOMO and CCC, 26 February 2013.

[169] Corporate Action Network website, "Walmart orders to Tazreen" http://corporateactionnetwork.org/campaigns/human-rights-for-all-walmart-workers-the-bangladesh-fire/campaign_materials (18 February 2013)

that supplies many international brands with garments, confirmed with CNN that it had placed orders worth more than USD 100,000 with the Tazreen factory in 2012.[170]

KiK

The German discounter KIK sourced from Tazreen earlier in 2012. KIK confirmed placing orders until November 2011, and stated that they did not source any garments from Tuba Group since August 2012.[171]

Disney

After several boxes of sweatshirts with Disney characters were found at the Tazreen factory[172], Disney released a press statement that Tazreen *"was not an authorized supplier for Disney-branded product".*[173] Disney explained that Walmart obtained the rights to use Disney characters on some apparel product[s]. These products were not made in Tazreen Fashions. They were made in a different factory, belonging to the Tuba Group, and according to Disney only a small quantity of products were moved to Tazreen Fashions for storage purposes.[174]

Sears

Documents found in the factory showed the company was producing for Sears. Like Walmart, Sears said that another supplier had subcontracted Sear's production to Tazreen without authorisation. Sears said it had been working with Tazreen in the past but that it had ended the relationship.[175] In response to a draft version of this report, Sears wrote to SOMO and CCC that "the merchandise found at Tazreen was not produced there with our knowledge". And: "our policies require vendors to register with us all factories producing our goods, including any goods subcontracted to another production facility. We rely on our vendors to follow policy, and provide us accurate and timely production information. These requirements were not followed in this case, and as a result, Sears terminated the vendor".[176]

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[170] CNN, "Retailers and suppliers hit by fallout from deadly Bangladesh factory fire", 27 November 2012 <http://edition.cnn.com/2012/11/27/world/asia/bangladesh-fire-mourning/index.html>

[171] CCC Urgent Appeals database

[172] USA Today, "Wal-Mart, Disney, Sears used Bangladesh factory in fire", 28 November 2012 <http://www.usatoday.com/story/news/world/2012/11/28/bangladesh-fire-walmart-disney-sears/1731225/>

[173] The Walt Disney Company website,"Update Regarding Bangladesh" , 21 December 2012 <http://thewaltdisneycompany.com/content/update-regarding-bangladesh>

[174] Disney, correspondence with SOMO and CCC, 19 February 2013.

[175] The New York Times, "Documents Indicate Walmart Blocked Safety Push in Bangladesh", 5 December 2012 <http://www.nytimes.com/2012/12/06/world/asia/3-walmart-suppliers-made-goods-in-bangladeshi-factory-where-112-died-in-fire.html?_r=0>

[176] Sears, email correspondence with SOMO and CCC, 26 February 2013.

ENYCE

Among the labels found in the burned-down factory were labels carrying the ENYCE logo. ENYCE is a brand owned by US rapper and producer Sean Combs. ENYCE clothing was sourced from Tazreen through Li & Fung. The president of ENYCE, Jeffrey Tweedy confirmed that ENYCE Kids is licensed to Li & Fung, "which operates, produces and oversees all manufacturing for the brand." He added that “compliance and safety are important to us, we expect all our licensees to have in place compliant standards for fire and safety conditions at any factory that may produce our brand."[177]

Edinburgh Woollen Mills

Sweaters from the Scottish label Edinburgh Woollen Mills were found in the factory after the fire, by labour activists and reporters.[178] EWM was cited in the media confirming that they were sourcing from Tuba Group, the company which owns the Tazreen factory.[179]

Dickies

Garments for US brand Dickies were found in the factory after the fire. Despite Dickies’ garments being found in the burned-down factory, holding company Williamson-Dickie Manufacturing Co. stated that it had cut ties with Tazreen before the fire. The company declined to say when exactly it stopped production at Tazreen and for what reasons.[180]

Piazza Italia

After labels were found carrying the Piazza Italia logo, the company stated they buy only through trading companies and that they had no production at the factory. According to Piazza Italia, at the time of the fire Tazreen was working on Piazza Italia sample products.[181]

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[177] ABC News Radio, “$1,200 a Life: Clothing Company Pays Peanuts to Families of Factory Fire Victims”, 28 November 2012 < <http://abcnews.go.com/Blotter/1200-life-clothing-company-pays-peanuts-families-factory/story?id=17814618 >

[178] Associated Press, “Factory owner: I didn't know fire exits needed“, 29 November 2012 <http://bigstory.ap.org/article/ap-exclusive-disney-sears-used-factory-fire-0>

[179] The Scotsman, “Indian factory where over 120 died in blaze made clothes for Scots knitwear“, 27 November 2012 <companyhttp://www.scotsman.com/the-scotsman/scotland/indian-factory-where-over-120-died-in-blaze-made-clothes-for-scots-knitwear-company-1-2660739>

[180] Banglanews24.com, “Tazreen Fashion fire Dickies says it cut ties earlier”, 21 December 2012 <http://www.banglanews24.com/English/detailsnews.php?nssl=da2a29e969de8fc4fea0ce6749fb0444&nttl=2012122160287>

[181] Correspondence and phone calls between Clean Clothes Campaign Italy and Piazza Italia, November 2012. CCC Urgent Appeals database.

Hipercor (subsidiary of El Corte Ingles)

In a reaction to a draft version of this report, El Corte Ingles wrote that its subsidiary Hipercor had a business relationship with Dhaka based vendor Texebo International. Texebo had subcontracted Hipercor production to the Tuba Group between April 2011 and June 2012. The Tuba Group placed Hipercor production at Tazreen. The company further writes that "in June 2012 this indirect link to Tuba Group is definitely stopped due to quality and workmanship problems."

Karl Rieker

A packing list of products for the German clothing brand Karl Rieker was found in the factory.[182] To date, the company has not issued any public statement regarding the fire at Tazreen and its relationship with the manufacturer. In communication with SOMO and CCC, Karl Rieker confirmed that an order they placed with Tuba Group in the beginning of 2012 was produced by Tazreen Fashions, but without their prior knowledge.[183] The company stated this was their first order with the Tuba Group and that they stopped working with the Tuba Group because they "had a lot of problems with Tuba". The company did not further explain what these problems entailed.[184] The last shipment of goods for Karl Rieker dated May 2012, according to Karl Rieker.[185]

Delta Apparel (parent company of Soffe)

Activists in Bangladesh told ABC News that they found order forms and design specifications for sweatshirts and tank tops with U.S. Marine Corps insignia and logos. Both the U.S. Marine Corps and the North Carolina-based company that was making items under a licensing agreement with the Marines (Soffe, subsidiary of Delta Apparel) said they did not know about or approve of any arrangement to make garments there. Bob Humphreys, Chairman and CEO of Delta Apparel, said that his company had placed an order with Tazreen's parent company, Tuba Limited in 2011. When Soffe received a shipment of 11,000 garments from Tazreen at that time, Soffe officials complained to Tuba. "We told them no other garments could be made in that facility, it was not authorised," Humphreys said.[186] In communication with the Worker Rights Consortium, Delta Apparel confirmed that there had been unauthorised production at Tazreen in 2011. Audits had been completed by Intertek in April and May 2011 at the Tuba Garment Ltd factory. Improvements were required with regard

[182] Clean Clothes Campaign, "Sean Combs' ENYCE labels found in Bangladesh factory fire", 26 November 2012 < http://www.cleanclothes.org/news/puffdaddy-bangladesh >

[183] Phone conversation with Kampagne fur Saubere Kleidung, 3 Dec 2012, CCC UA database

[184] Karl Rieker, correspondence with SOMO and CCC, 19 February 2013.

[185] Ibid.

[186] ABC News, "Bangladesh Factory Fire: Patterns for Marine Corps Sweats, Tank Tops Found In Ashes", 4 December 2012 < http://abcnews.go.com/Blotter/bangladesh-factory-fire-patterns-marine-corps-sweats-tank/story?id=17875010 >

to health and safety, and according to Delta Apparel all requirements were met by 30 May 2011. No audits were carried out at Tazreen Fashions.[187]

Teddy Smith

Sweaters from the French company Teddy Smith were among the clothing items that were found in the factory after the fire.[188] To date, the company has not issued any public statement regarding the fire at Tazreen and its relationship with the manufacturer. However, Teddy Smith declared to France24 that it was not aware that their orders had been subcontracted to Tazreen Fashions. After the fire, Teddy Smith contacted its agent in Bangladesh, which acknowledged that production had been moved to Tazreen Fashions before the summer of 2012.[189]

4.4. Social auditing

Walmart

Walmart's Standards for Suppliers provide the framework for its audits. Factories supplying Walmart are marked green, yellow, orange or red, based on the type and severity of violations found. [190] The Tazreen factory was audited at least twice by Walmart in 2011.[191]

Documents on the Tuba Group website reveal that Walmart performed an audit at Tazreen on 16 May 2011. Tazreen received an orange rating after this audit. A letter from Walmart that is placed on the Tuba Group website refers to the audits and mentions that "the factory had violations and/or conditions which were deemed to be high risk." The letter further mentions that this is the first orange assessment for this factory in a two year period. The factory is requested to draw up and complete an action plan which should be presented to the auditor during a follow-up audit that will take place within six months. [192] What eventually led Walmart to decide to discontinue its relationship with Tazreen (see paragraph 4.3) is not clear.

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[187] Records of email exchange between Delta Apparel and WRC (3 Dec 2012) in CCC UA database

[188] RYOT, "Wal-Mart, Disney clothes found in torched Bangladesh factory", 28 November 2012 < http://www.ryot.org/wal-mart-disney-clothes-found-in-torched-bangladesh-factory/25674 >

[189] France 24, "Incendie meurtrier de Dacca : ces grandes marques qui "ne savaient pas", 4 December 2012 <www.france24.com/fr/20121204-incendie-meurtrier-dacca-grandes-marques-ignorance-teddy-smith-explication-tazreen-tuba-textile-condition-travail>

[190] Walmart stores website, "The audit program", no date <http://www.walmartstores.com/sites/responsibility-report/2012/theAuditProgram.aspx>, (14 January 2013).

[191] CNS news website, "The factory fire: Global commerce, local tragedy", 1 December 2012 <http://cnsnews.com/news/article/factory-fire-global-commerce-local-tragedy>

[192] Tuba Group website, "1st Orange", Walmart letter regarding Tazreen audit on 16 May 2011 (14 January 2013).

C&A

In an interview with the Dutch newspaper De Telegraaf, Philip Chamberlain, Head of Sustainable Business Development at C&A said that the company's own inspection did not give any reason not to start production at Tazreen.[193] This inspection was carried out by C&A's local sourcing office and included a "visual health and safety check". The SOCAM (Service Office Compliance Audit Management) audit, which is much more comprehensive, had not been conducted at that time.[194]

Business Social Compliance Initiative (BSCI)

Tazreen Fashions had also been subjected to a BSCI audit in December 2011.The audit was carried out because a BSCI member considered sourcing from Tazreen. The audit revealed several non-compliances, among them health and safety issues. The factory was rated 'improvement needed'.[195] BSCI stated that corrective measures were due to be in place in December 2012. However, "as no BSCI participating company was and is currently sourcing from this factory, no participant had a relationship that would give the leverage and the responsibility to request improvement measures to be implemented in the factory. The factory is what we called an 'orphan', until Wednesday 21 November when another BSCI Participant decided to consider them for future business."[196]

BSCI criticized C&A for not identifying the above mentioned non-compliances. C&A's Head of Sustainable Business Development, Philip Chamberlain responded that C&A did not know about the results of the BSCI audit as the report had not been made public.[197]

4.5. Actions undertaken after the fire

Civil society organisations

Directly after the fire, labour rights organisations and unions went to the factory site to collect information about the fire, the victims and the brands sourcing from the factory. In the subsequent days press conferences and rallies were organised by trade union federations and other organisations, including the National Garment Workers

[193] De Financiele Telegraaf, "Brand zet C&A op scherp", 10 December 2012.
[194] C&A, email correspondence with SOMO & CCC, 25 February 2013.
[195] BSCI, "BSCI letter for the factory fire in Bangladesh", no date < http://sustain-tech.com/en/xingyezixun/561.html >
[196] BSCI, "Towards increased actions on health and safety standards in Bangladesh", 30 November 2012 <http://www.bsci-intl.org/news-events/towards-increased-actions-health-and-safety-standards-bangladesh>
[197] De Financiele Telegraaf, "Brand zet C&A op scherp", 10 December 2012.

Federation, the Bangladesh Garment and Industrial Workers Federation and the Bangladesh National Council of Textile, Garment and Leather Workers[198].

ASK, Bangladesh Legal Aid Services Trust (BLAST), BRAC and Nijera Kori filed a Public Interest Litigation (writ petition), which was accepted by the High Court, ordering amongst others that the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), and the government should explain their preventive measures to save workers from fires. It also raised issues such as enforcement of relevant laws; compensation from the owners of Tuba Group and Tazreen Fashions and treatment of the injured workers; and an independent probe committee into this incident.[199] On the 4 December 2012, Bangladeshi trade unions and international organisations published a set of demands to brands sourcing from Tazreen Fashions[200] (see box 3).

Box 3: Demands towards brands sourcing from Tazreen Fashions

Bangladesh trade unions and international organisations published a set of demands to brands sourcing from Tazreen Fashions on 4 December 2012. These called for a delegation to be sent to Bangladesh to meet victims and their families, trade unions and labour rights organisations and work with other buyers to ensure the following demands are met:

Full redress for the victims:

- Emergency relief for all victims and their families;
- Coverage of all medical costs short and long term;
- Full and fair compensation covering loss of future earnings as well as damages for the injured and families of the dead, based on the compensation formula proposed by the unions and labour rights groups supporting the Bangladesh Fire and Building Safety Agreement. The full compensation package should also cover educational fees for the children of the deceased.
- Ensure wages continue to be paid for all workers (meeting legal entitlements at minimum) and that all workers are rehired at Tazreen Fashions, or in the event that it does not reopen, that workers are paid legal severance and offered priority hiring in nearby suppliers at equivalent or higher salary levels.
- Work with the government to set up a permanent workers' welfare fund to cover compensation for industrial incidents and workplace injuries.

Full and transparent investigation:

- Acknowledge responsibility and support an independent investigation into the fires and prosecution for those culpable;
- Publish all audit reports relating to Tazreen Fashions.

[198] CCC UA database

[199] Bangladesh Legal Aid and Services Trust, "ASK, BLAST and others vs. Bangladesh and others ['Tazreen Garments' Case] Writ Petition No. 15693 of 2012, no date Www.blast.org.bd/issues/workersrights/467

[200] Https:/www.cleanclothes.org/urgent-actions/tazreen-demands

Prevention of future incidents:

- Sign and immediately implement the comprehensive and independent Bangladesh Fire and Building Safety Agreement that has been developed by local and global unions and labour rights organisations. The programme includes independent inspections, public reporting, mandatory repairs and renovations, a central role for workers and unions in both oversight and implementation, supplier contracts with sufficient financing and adequate pricing, and a binding contract to make these commitments enforceable;
- Publicly disclose full supplier list;
- Actively promote freedom of association and bargaining rights for workers through access agreements to create an atmosphere where workers can freely join trade unions and form factory level unions.

After individual follow up with the brands by CCC, the International Labour Rights Forum, Workers Rights Consortium and Maquila Solidarity Network, public actions have been launched to support the demands formulated by the groups.[201]

On 17 January 2013, the European Parliament adopted a resolution on factory fires, in which the parliament welcomes the CCC-proposed Bangladesh Fire and Building Safety Agreement, calls upon textile brands to support this effort and to contribute to compensation for the victims of garment factory fires and their families.[202]

4.6. Actions undertaken by buyers

C&A

In the days after the fire, C&A's Head of Sustainable Business Development, Philip Chamberlain, traveled to Bangladesh for a three-day visit. After his return, C&A issued a press release (dated 6 December 2012) in which it announced that they would reserve 5 million euros for compensation, monitoring and prevention.[203] However, no details were provided about how much money would go to the victims, or would be spent on its own monitoring process, or preventive measures.

The press release stated that C&A would work together with Caritas and other local organisations to "sponsor" housing and education for children who have lost their

[201] See for instance Clean Clothes Campaign, "Demand justice for the victims of the Tazreen fire", 19 December 2012 <http://www.cleanclothes.org/urgent-actions/tazreen-action >

[202] European Parliament, "European Parliament resolution on recent casualties in textile factory fires, notably in Bangladesh (2012/2908(RSP)), 9 January 2013.

[203] C&A Persbericht, C&A helpt slachtoffers en families en versnelt brandveiligheidsprogramma's bij leveranciers in Bangladesh, 6 December 2012 <http://www.c-and-a.com/be/nl/corporate/fileadmin/mediathek/nl-be/Pressreleases/Persbericht_C_A_helpt_slachtoffers_en_families_en_versnelt_brandveiligheidsprogramma_s_bij_leveranciers_in_Bangladesh.pdf

parents in the fire. C&A also announced that it would implement a more stringent audit procedure. Future orders from Bangladesh must be preceded by a SOCAM audit (in addition to the initial Safety and Quality Assurance audit). The press release further specified that all C&A suppliers in Bangladesh will be subjected to SOCAM audits before the end of 2012.

C&A issued another press release on 26 February 2013 in which further details about its response to the Tazreen fire were given.

- Financial support for victims: C&A will donate more than one million USD to the victims of the fire via the C&A Foundation. Recipients of financial support are: children who lost a parent at the fire; those injured and unable as yet to return to work and; families who lost a relative in the fire.
  C&A writes that 70 children from 46 families have been named as having lost at least one parent in the fire. An amount of USD 50 (4000 Taka) per month will be made available for each of these children until they reach the age of 18 years old. C&A further writes that 50 former employees of Tazreen fashions who were injured in the fire and are still unable to work will be supported by C&A. C&A will continue to pay the medical costs for each of these 50 people until such time as they are fully recovered and able to work. In addition C&A will pay for loss of earnings which this group has suffered.
- For each of the families who lost a relative in the fire C&A has donated 1,200 USD (BDT 100,000) per family.[204] The distribution of this lump sum will be coordinated with the BGMEA.
- Bangladesh Fire and Building Safety Agreement: C&A writes in its press release that it will "re-examine a possible accession to the treaty." C&A company representatives referred to the lack of willingness among other companies to agree to a respective memorandum of understanding, which would render practical implementation difficult. "Few brands cannot effect the necessary change in regard to fire safety which is required in Bangladesh," Mr. Chamberlain said. "To ensure safe and healthy working conditions in the future it is essential that initiatives are developed which involve multiple stakeholders, and will lead to fundamental change on the ground."[205]

By the end of February 2013, C&A reported to SOMO and CCC that all units used for C&A production in Bangladesh that had not yet been subjected to a SOCAM audit (as was the case with Tazreen) were now all audited by SOCAM and that future orders (not just those from Bangladesh but from all countries in which C&A production takes place) must be preceded by a SOCAM audit.

[204] C&A press release, "C&A announces support for victims of fire in Bangladeshi garment factory", 26 February 2013.
[205] Ibid.

C&A added that one month before the fire it had started a fire prevention programme in Bangladesh. Implementation of this programme, which will be carried out in cooperation with Bureau Veritas, will be prioritised.[206]

Li & Fung

The company announced that it will carry out its own investigation into the incident at Tazreen. The company issued a statement on the incident in which it says that "we will continue to work with the authorities and the business community in Bangladesh to ensure that proper support is given".[207]

The company further promised to intensify it training program for garment factories worldwide.[208] The programme includes "Enabling Fire Safety, Fire Safety Videos, Fire Safety Management, Videos on Best Practices and Capacity Building".

In response to a draft version of this report, Li & Fung wrote that it has provided BDT 100,000 (USD 1,250) compensation to 54 injured workers and to 57 families of deceased workers. They have not provided further detail about the identification and disbursal of the compensation. As stated above, the BGMEA announced it was in charge of distributing compensation on behalf of Li&Fung, which was provided for at most 53 deceased workers by the date of 20 February 2013.

In addition, Li & Fung reported to SOMO and CCC that, in collaboration with another retailer, they have set up an educational fund for children of deceased and injured. An amount of 4000 Taka (US$50) per month will be made available for each of these children until they reach the age of 18 years old.[209]

Walmart

Four days after the Tazreen incident, Walmart sent a proposal to members of the Global Social Compliance Programme. This industry group represents more than 30 companies, including Walmart, Carrefour and PVH Corp. The three-page proposal said "fire and electrical safety aspects are not currently adequately covered in audits," and outlined steps "to significantly improve fire safety precautions on all fronts."

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[206] C&A Persbericht, "C&A helpt slachtoffers en families en versnelt brandveiligheidsprogramma's bij leveranciers in Bangladesh", 6 December 2012 <http://www.c-and-a.com/be/nl/corporate/fileadmin/mediathek/nl-be/Pressreleases/Persbericht_C_A_helpt_slachtoffers_en_families_en_versnelt_brandveiligheidsprogramma_s_bij_leveranciers_in_Bangladesh.pdf

[207] Li&Fung website, "Initiatives to Intensify Fire Safety Training Support for Suppliers", no date, <http://www.lifung.com/eng/csr/fire_safety_train.pdf>, (14 January 2013).

[208] Ibid.

[209] Li & Fung, email correspondence with SOMO and CCC, 25 February 2013.

Among the steps: members of the group would pay to review all factories, which would be given six months to "implement corrective action at supplier cost." [210]
In April 2011, Walmart participated in a meeting in Bangladesh with global retailers to discuss how Bangladesh factories can improve their electrical and fire safety. On the basis of the minutes of this meeting the New York Times wrote that, a Walmart director of ethical sourcing, along with an official from another major apparel retailer, said that the proposed improvements in electrical and fire safety would involve as many as 4,500 factories and would be "in most cases" a "very extensive and costly modification. It is not financially feasible for the brands to make such investments".[211]
In a reaction to the draft report Walmart wrote that the remarks from the meeting in Bangladesh in April 2011 had been taken out of context and remarked that Walmart recognises "the cost of meeting standards [for suppliers] will be part of the cost of the goods we buy."[212]

In December 2012, CCC published an overview of actions undertaken by brands in reaction to the fire. CCC then warned there was no indication that the programme announced by Walmart will pay for the renovations that are needed, or that it will respond to any of the other key elements of a credible prevention programme. [213]

A month later, on 22 January 2013, Walmart sent a letter to all its suppliers to inform them of "a new zero-tolerance policy for unauthorized subcontracting, as well as related ethical sourcing program enhancements". In this letter Walmart writes that "any facilities subcontracting sourcing of Walmart merchandise to an undisclosed or unauthorized facility will be classified as "Red-Failed" in our system and may be permanently barred from sourcing merchandise to Walmart for all retail markets." In addition, the letter states that facilities (worldwide) found to have fire safety related violations will have 30 days in which to take corrective action before production is barred. Walmart further announces a number of measures specific for suppliers in Bangladesh:

- Suppliers in Bangladesh will be reviewed. Corrective action for any fire safety issues identified will be required within 30 days.
- All facilities must go through a mandatory electrical and building safety review provided by a credible independent external certification agency.
- Production may not begin until after the facility has passed the full Ethical Sourcing pre-qualification process. Production in a facility that has not been prequalified will be deemed unauthorised subcontracting.

[210] The Daily Star, "Wal-Mart email reveals strategy to upgrade Bangladesh factories", 16 December 2012 <http://www.thedailystar.net/newDesign/news-details.php?nid=261344>
[211] The New York Times, "Documents indicate Walmart blocked safety push in Bangladesh", 27 November 2012 < http://www.nytimes.com/2012/12/06/world/asia/3-walmart-suppliers-made-goods-in-bangladeshi-factory-where-112-died-in-fire.html?_r=0>
[212] Walmart correspondence with SOMO and CCC, 26 February 2013
[213] Clean Clothes Campaign, "Tazreen fire: What brands should do, and their responses so far", 19 December 2012 < http://www.cleanclothes.org/urgent-actions/tazreen-backgrounds >

- Facilities that meet one or more of the "Structural Fire Safety Criteria" (see below) will be assessed as "Red-Unauthorized" and inactivated.

Structural Fire Safety Criteria to be Deemed High Risk:

- Residential building converted into factory
- Facilities in multi-storey building with a ground-floor marketplace
- Facilities in multi-storey building shared with other factories/enterprises under separate ownership
- Facilities with a rooftop that does not meet legal requirements
- Facilities where there is a residence located within the building

El Corte Ingles

In response to a draft version of this report, El Corte Ingles writes that it has actively supported the proposed Fire Safety Alliance, a joint initiative with GIZ, the German technical cooperation Agency. This Alliance aims to implement a broad action programme in both Bangladesh and Pakistan involving all stakeholders, including CCC, IndustriALL, ILO, brands and retailers and all the players – Government, unions and businesses- at local level in both countries. El Corte Ingles further writes that as soon as the Alliance and the programme will be agreed upon, they plan to commit, also financially, to its development.

In a letter to GSCP (Global Social Compliance Programme), convener of the proposed Fire Safety Alliance, CCC together with other international labour groups outlined their objections to a programme that would not be based on the criteria of transparency, independent inspections, worker involvement, multi-stakeholder overview, mandatory reparations, financial support and pricing that allows for renovations and binding arbitration. These are the core criteria of the Bangladesh Fire and Building Safety Agreement (BFBSA), and elaborated in detail in this Agreement. The labour groups deplored any delay that might occur by introducing yet another programme to the signing of the BFBSA by brands sourcing from Bangladesh, given the urgency of fire safety issues in the Bangladesh garment industry, and that the BFBSA had been shared with brands already well in advance of this new initiative (including with El Corte Ingles).

Other buyers

The other buyers have not communicated about any concrete action or program they had developed to prevent future fire and building accidents in Bangladesh, or to pay compensation of the victims of the fire at Tazreen Fashions. EWM failed to respond in any way to the demands from the trade unions and labour groups.[214] In correspondence with Maquila Solidarity Network and the International Labor Rights

[214] Clean Clothes Campaign, "Tazreen fire: What brands should do, and their responses so far", 19 December 2012 < http://www.cleanclothes.org/urgent-actions/tazreen-backgrounds >

Fund, Disney has refused to commit to the Fire and Bangladesh Safety Building Agreement, as they "do not believe that it is a workable framework". Disney adds to have been in further conversations with the US government and other stakeholders to develop a collaborative and long-term approach that would make more sense for them, and refers to developments between the ILO and Bangladesh government regarding a new National Tripartite Action Plan on Fire Safety, without, however, giving any details or timeframe.[215]

BSCI

In response to SOMO and CCC's review request, BSCI wrote that it had undertaken initiatives with regard to system issues, capacity building and awareness raising and stakeholder relations.[216]

From now on, BSCI stated, fire safety issues will render audits 'non-compliant' in all cases. Fire safety non-compliances require fast actions and thus the corrective actions are to be checked in such case. All audit materials and tools regarding fire safety in the BSCI Platform will be reworked.

A special alert system is installed which will alert BSCI participants when fire safety violations are detected at their suppliers. A special check list for buyers is distributed, focusing on health and safety issues and on fire safety in particular.

In February 2013 a pilot 'fire preparedness training' for factories in Bangladesh was conducted in cooperation with WRAP. In addition, training for buying companies was organised in Germany.

Lastly, BSCI informed SOMO and CCC that they will organise a Round Table about fire safety in Bangladesh on 14 March 2013.

4.7. Compensation

Based on international labour standards (including ILO convention 121) and best practices[217] in Bangladesh, the Bangladesh unions have demanded BDT 500,000 (USD 6,337) compensation for pain and suffering for the injured workers and families of the deceased workers. In addition to the compensation for pain and suffering, BDT 2,1 million (USD 26,617) compensation should be paid for loss of income for each of the deceased workers, as well as 10% of this amount for education of any children.

[215] CCC Urgent Appeals database
[216] BSCI, correspondence with SOMO and CCC, 25 February 2013.
[217] Compensation that has been agreed between Bangladeshi trade unions and brands sourcing from Spectrum (2005), Hameem/That's It Sportswear (2010) and Eurotex/Continental (2011)

Injured workers should receive compensation for loss of income as long as they would be unable to work.

As of February 20, 2013, only 49 families of 53 deceased workers have received compensation disbursed by the BGMEA. Only for 43 deceased workers BDT. 600,000 (USD 7,605) was distributed to their families. For 10 workers there was partial compensation, and for 9 more identified workers that have been listed by the authorities no compensation has yet been paid. The amount is provided by the government (BDT 300,000, USD 3,802), BGMEA (BDT 100.000, USD 1,267), the Bankers Association (BDT 100,000) and Li& Fung (BDT 100.000).[218] In addition, by the end of January 2013, 33 of the injured workers are confirmed to have received BDT100,000 from the BGMEA.[219]

4.8. Conclusions

This case shows how multiple actors – government, manufacturers, buyers and auditing firms – failed to assume their responsibility in protecting and respecting workers' rights. Hazardous conditions eventually culminated in the horrific fire that swept through the factory on 24 November 2012, killing 112 workers and injuring dozens of others.

Failure to prevent the fire

As at Ali Enterprises in Pakistan, the management of Tazreen Fashions neglected its responsibility to protect workers' rights. The management failed to provide its workers with safe working conditions. Equally, the government of Bangladesh neglected its duty to protect the rights of the Tazreen workers. A number of government bodies failed in their task to ensure a safe working environment. The Bangladesh labour inspectorate, for instance, is dramatically understaffed and highly ineffective. Tazreen Fashions had operations running at all floors of a nine-storey building, while having permission for production activities at three floors only. The labour inspection did not prevent this. Although Tazreen Fashions got clearance from the Fire Service and Civil Defence, no inspector ever visited the factory.

Some of the buyers sourcing at Tazreen Fashions, such as Walmart, detected safety risks at Tazreen Fashions prior to the November 2012 fire. Equally some of the auditing firms that looked into conditions at Tazreen such as BSCI found non-compliances. Buyers and auditors did, nevertheless, not take appropriate action to remediate the safety hazards. Nobody was notified about the safety hazards,

[218] New Age, "Most families of Tazreen victims get no compensation", 20 February 2013, <http://www.newagebd.com/detail.php?date=2013-02-20&nid=40672#.UT38ZJJ5GSp>

[219] CCC UA database

although all major buyers from Bangladesh have been warned again and again about the imminent dangers in the garment factories.[220] In fact, the buyers and auditors left workers literally in a death-trap, as was proven reality on November 24, 2012. The confidentiality of audit reports and supplier-lists seems to prevail above the possibility to save human lives. Other buyers and their respective auditors (e.g. C&A) seem to have completely overlooked any fire safety issues. It is unclear how some of visible deficits, such as the absence of emergency exits and automated fire defense systems, could have been missed by the auditors.

After the fire, several buying companies and business associations, such as BSCI, committed to undertake actions to prevent future tragedies from occurring. They are increasing the number of audits and invest in fire safety trainings. However, most of these actions fail to address the structural problems that allow for tragedies like these to happen. Many factory building were built for other purposes and, unless serious renovations take place, are not fit for garment production. To renovate these buildings, buyers should commit to financial support and pricing that makes renovations feasible. In order for the manufacturer to also invest in renovations, buyers should commit to long term relationships. In case orders will be ceased because of notorious non-compliance with safety standards, buyers should commit to ensuring it is not the workers who pay the price. This includes commitment that workers are paid legally required severance payments and back wages, negotiations with worker representatives for additional provisions to mitigate losses, and offering of alternative employment.

In addition, there is no transparent multi-stakeholder process that includes a provision for binding arbitration, to ensure adequate implementation of such improvement programmes.

Local civil society organisations were able to identify a considerable number of buyers that were sourcing at Tazreen at the time of the fire. Quite a number of these buyers, however, (e.g. Walmart, Sears and Hipercor) have not acknowledged Tazreen Fashions as their authorised supplier. On the contrary, they have indicated that their suppliers must have subcontracted production to Tazreen without their knowledge. The Tazreen Fashions fire case demonstrates how important it is that brands and retailers conduct human rights due diligence throughout their supply chains. This enables them to identify where their production is taking place, what the human rights risks are so that they can take measures to ensure workers' rights are respected throughout their supply chain. In addition, it shows the importance of disclosure of supplier lists, being the only way that workers and their organisations can check

[220] CCC UA database: 31 major apparel brands have been approached with urgent recommendations for fire safety already in 2010, after the Garib & Garib fire that cost the lives of 21 workers. In multistakeholder meetings organised on this subject in 2010 and 2011, another 20 brands have participated.

whether their factories are on the radar of the global brands. Given the requirement to companies to ensure access to redress, this transparency is crucial.

Failure to provide full redress to victims

Compensation of victims has been hampered by the fact that not all workers employed at Tazreen Fashions received an employment contract. This situation severely hampered the swift identification of the victims and the injured. The government of Bangladesh has paid compensation in line with the demands of labour groups. However, to date not all workers or their families received the compensation they are entitled to. Corporate action with regard to compensation is still far from adequate. So far only C&A en Li & Fung have taken some steps towards payment of medical costs and covering the loss of income of injured workers. However, their joint contribution only amounts to 8% of the total amount of the compensation demanded for the deceased workers. Neither company has agreed to a calculation of compensation based on loss of income, an internationally recognised basis for compensation in case of occupational accidents and diseases.[221]

[221] ILO Convention 121 Employment Injury Benefits <http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C121>

5. Conclusions

All workers have the right to work in an environment that is safe and not detrimental to their health. This right is laid down in Article 7 of the International Covenant on Economic, Social and Cultural Rights which is part of the International Bill of Human Rights, as well as being enshrined in ILO Convention 155. It is clear that this right has been breached in both cases featured in this report, and that multiple actors are to be held responsible. These actors also have a responsibility in remediating the harm caused for victims and avoiding future tragedies.

The UN Guiding Principles have effectively clarified that companies have a responsibility to respect human rights, independent of the state duty to protect human rights. They outline measures to be undertaken by business and government to prevent abuses from occurring, and to remedy the abuses that, notwithstanding preventive measures, have occurred. In this concluding chapter, the UN Guiding Principles are applied to formulate what actions each of the actors involved in the fires at the factories of Ali Enterprise in Karachi, Pakistan and Tazreen Fashions in Dhaka, Bangladesh would need to take to adequately protect and respect the rights of workers in Bangladesh and Pakistan to a safe workplace (that is: prevention), and provide for remedy in cases such as those presented in this report, where workers suffer injury or death as a result of a safety incident.

5.1. Duty to Protect: governments of garment-producing countries

As the cases of Tazreen and Ali Enterprise have demonstrated, the governments of both Bangladesh and Pakistan failed to protect the garment workers from the violation of their rights to safe workplaces. The relevant inspectorates in both countries (e.g labour, building, planning, and electricity inspectorate) are insufficiently equipped to enforce occupational health and safety laws.

In addition, both governments have failed to ensure access to effective remedy for the victims of the fires and their relatives. Highly problematic is the lack of institutionalised compensation schemes in both countries[222], as recommended in ILO Convention 121.

To address these gaps in the protection of garment workers and to ensure access to remedy, **governments of garment producing countries** should at the minimum:

[222] ILO convention 121 is only ratified by 24 countries, and Bangladesh and Pakistan are not amongst them.

- Ensure an effective labour inspectorate, which implies it is transparent and equipped with the necessary resources to conduct regular inspections for adherence to workplace safety and labour legislation; reinforcement measures and sufficient capacity. This demand is supported by a recent resolution of the European Parliament in which it "Calls on the Governments of Bangladesh and Pakistan to continue with thorough investigations into the recent events and to put in place measures to prevent a recurrence of the tragedies, including full compliance by all manufacturers with health and safety legislation (notably the Labour Act (2006) in Bangladesh) and the establishment of an effective and independent system of labour inspections and inspections of industrial buildings"[223]
- Conduct independent investigations into criminal negligence of the management of concerned factories;
- Set up, or ensure the setting up of an institutionalised compensation scheme in line with ILO Convention 121;
- Ensure respect for workers' internationally recognised rights of freedom of association and collective bargaining by ratifying and implementing ILO conventions on freedom of association, and actively promoting freedom of association.

Box 4: Minimum requirements for safe factories

Inspections must ensure that each factory at a minimum meets national and other international standards for fire prevention and emergency evacuation plans. Listed below are some key standards that should be met, but this is by no means a complete or exhaustive list:

- Every production facility floor must have sufficient number of emergency exits, and at minimum two exits at opposite ends of the building that are accessed by unique exit routes.
- All exterior doors and doors to exit hallways and staircases must open in the direction of travel and be readily opened by any worker without the use of keys or tools.
- Barred windows must be readily opened from the inside without the use of keys or tools.
- In multi-storey buildings, exit stairways must be isolated from the building by one-hour fire-rated walls and doors. The doors must be self-closing and kept closed at all times.
- The maximum distance to an exit in an apparel factory cannot exceed 200 feet (61 meters) if the building is unsprinklered or 250 feet (76 meters) if provided with automatic fire sprinklers. Exit routes are direct, without the need to go from one production area to another to reach an exit.
- The full width of aisles, exits and staircases must be kept clear of storage and other obstructions at all times.

[223] European Parliament resolution of 17 January 2013 on recent casualties in textile factory fires, notably in Bangladesh (2012/2908(RSP)

- Exit routes must be provided with emergency lighting and be marked with signs that are easily seen from all areas within the facility.
- Warehouses and other areas where combustible or flammable materials are stored cannot be located on or beneath working factory floors unless they are fully sprinklered and provided with a minimum of one hour fire-rated separation from work areas.
- The building meets regulations for gas lines and electrical wiring, fire retardant materials in walls and roofs.
- Procedures for safe use of the machinery being operated are available and observed,
- Smoking within any area of the building is not allowed under any circumstances.
- Every work area is provided with an audible and visual alarm system to alert workers of an emergency. Alarm buttons are located at every exit door.
- The factory has well-maintained fire prevention materials and fire fighting equipment on the premises.
- The factory has a professionally-developed fire emergency policy, which is tested through regular, monthly fire drills with all workers.
- Fire awareness and prevention training is provided for all workers at the time of hire and annually thereafter—in conjunction with fire drills.
- Fire drills are conducted for all factory areas and work shifts at least every six months.
- A designated manager is responsible for structural and fire safety, and an adequate number of employees who are trained to respond appropriately to fires and other emergency situations.
- The factory is inspected by a trained fire safety team during each work shift to ensure that these requirements are met at all times.
- The factory has a health and safety committee comprised of representatives of management and workers, which meets regularly to review and address health and safety issues, including fire safety.
- In the case of factories operating in buildings housing more than one enterprise, in addition to the measures outlined above, has a coordinated fire emergency policy and procedures, accessible fire fighting equipment, designated and trained personnel, and a programme of regular fire drills for the entire building.

5.2. Duty to protect: governments at buying end of the supply chain

Alongside governments in garment-producing countries, the **governments of countries with buying companies** domiciled in their territory/jurisdiction also have a role to play in the protection of garment workers in Pakistan and Bangladesh, as well as ensuring workers' access to remedy in case of violations. The UN Guiding Principles stipulate that governments should "set out clearly the expectation that all business enterprises domiciled in their territory/jurisdiction respect human rights

throughout their operations"[224], which includes supply chains. To make sure this expectation is indeed effectuated, CCC and SOMO argue that governments at the buying end of the supply chain should:

- Take measures to ensure that companies domiciled in their territory/jurisdiction respect human rights throughout their supply chains.
- Support fire and building safety programmes in Bangladesh and Pakistan that adhere to the principles of transparency, accountability, independent inspections, mandatory renovations and worker involvement.
- Introduce legislation that holds companies domiciled in their territory/jurisdiction accountable for human rights violations throughout their supply chains.
- Make private-public investments in garment industry in Bangladesh and Pakistan and other forms of government support to corporations conditional on implementation of safety programmes according to internationally agreed-upon labour standards.[225]
- Use their bilateral, multilateral and diplomatic relations to motivate the governments of Bangladesh and Pakistan to fulfil their duty to ensure a safe working environment in the garment industry, protect the rights of their garment workers and ensure access to remedy, including compensation.

5.3. Corporate responsibility to respect: garment brand companies and retailers

Apart from the governments of Bangladesh and Pakistan that failed to meet their duty to protect the rights of garment workers in their jurisdictions, the cases also demonstrate that **garment brand companies and retailers** failed to meet their responsibility to respect the rights of the garment workers. Corporate human rights due diligence procedures (if implemented at all) were not able to prevent the fires from happening and causing a high death toll, injuries and an atmosphere of fear amongst garment workers. In addition, adverse impacts have not been mitigated. The families of the victims, the injured, and the workers who are now jobless are still waiting for full compensation for loss of income in line with international standards.

To date, most brands and retailers have failed to ensure adequate compensation for the victims of the factory fires at Ali Enterprises and Tazreen Fashions in line with international standards. Brands and retailers have failed to use their leverage towards other responsible actors (e.g. government, certification bodies, business associations, other buyers, etc.) to put in place a sustainable and structural redress mechanism in

[224] United Nations Human Rights Office of the High Commissioner. Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect and Remedy", 2011 <http://ww.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>.

[225] In this context ILO Convention 155 regarding a safe and healthy workplace is of particular importance.

the form of an institutionalised compensation scheme. SOMO and CCC recognise that KIK has taken a good step in the right direction with the current compensation package and the signed commitment to negotiate further compensation with local and international labour groups. However, CCC and SOMO warn against further delay in the process.

The cases of Ali Entreprises and Tazreen Fashions also demonstrate that current purchasing practices are not stimulating the upgrading of factory building to safety standards. It is clear that the hazardous conditions at the factories concerned did not materialise overnight. Instead, the structural insecurity of the buildings (illegal constructions, lack of safety exits, blocking and locking of exits) existed long before the fatal incidents took place. The failure of the buyers to fix these hazards (on their own initiative or in collaboration with others), or, when they had left the factory for safety reasons, the failure to inform relevant stakeholders, most notably the workers, makes them responsible.

Therefore buyers and retailers should, at a minimum:

- Install safety programmes that include the key elements in Box 5;
- Disclose all audit reports of factories where safety incidents have taken place and/or where non-compliances with health and safety standards have been documented.
- Implement better purchasing practices to enable and encourage improvements in occupational health and safety conditions at suppliers. For instance, buyers should offer adequate prices, multi-year contracts and reasonable supply lead times to enable upgrading of facilities by suppliers and increase their leverage.
- Negotiate with organisations that represent the victims of the fires about adequate compensation, in situations where full compensation in line with ILO Convention 121 is not ensured by law and practice.
- Contribute to and ensure full payment of compensation based on grief and loss of income, medical and psychological care, payment of wages (and in case the factory closes negotiate severance) and continuance of worker employment.
- Be transparent and accountable with regard to these compensation efforts.
- Spread responsibility for remedy over multiple companies, including companies that sourced from the factory in the period (one to two years) preceding the fires.
- Use their leverage to motivate other stakeholders to protect/respect the rights of garment workers and, if these efforts fail, increase their leverage (for instance by joining forces with other parties involved).

Box 5: Key elements of an effective fire and building safety programme

- Inspections by trained fire safety experts operating independently of the brands and the factories being inspected;
- Public reporting of the results of all inspections;
- Mandatory repairs and renovations to address all identified hazards – and a requirement that brands must cease doing business with any supplier that refuses to make needed repairs and operate safely;
- A central role for workers and unions, including worker-led safety committees in all factories and access to factories for unions to educate workers on how they can protect their rights and their safety, including their right to refuse unsafe work;
- Contracts with suppliers that ensure sufficient financing and adequate pricing to cover the cost of eliminating deadly hazards and operating in a safe manner; and
- A binding contract between the brands and worker representatives that make these commitments enforceable – so the brands have to follow through, even if it means increased costs or longer turnaround times on orders.

5.4. Corporate responsibility to respect: auditing firms and certification bodies

In the cases of Ali Enterprises and Tazreen Fashions both suppliers and buyers heavily relied on auditing and certification to manage their due diligence obligations. In both cases, **auditing firms and certification bodies** provided undeserved and unjustifiable assurance that the mentioned factories complied with health and safety standards. Ali Enterprises had received an SA8000 certification for decent working conditions from the SAAS-accredited Italian auditor Registro Italiano Navale Group (RINA) only one month before the tragic fire. This case highlights the weaknesses of the SAI certification system to detect safety hazards and prevent adverse human rights impacts.

At present, there are no serious consequences for audit firms and certification bodies when they provide false safety assurances. They are not held responsible for the fires and other serious health and safety accidents and fatalities. However, one can clearly argue that their business activity has contributed to the adverse human rights impact documented in the present cases, by inhibiting others (i.e. buyers, factory management, governments) to take adequate preventive action. As such, according to the UN Guiding Principles, they are also responsible for mitigating these impacts. The two cases have prompted fundamental criticism of the methodology of audit firms and certification bodies. If SAI is to maintain any credibility it must seriously reconsider its auditing methods to address these fundamental shortcomings in the future, as well as cooperate with those groups working for justice for the victims of the Ali Enterprises fire.

Therefore, audit firms and certification bodies, at the minimum, should:

- Notify the buyer, the government, relevant business associations and worker representatives when factory audits identify health and safety hazards, and publicly disclose the results of such audits.
- When having failed to do the above, provide redress to affected workers and families of affected workers. The same responsibility applies in situations where auditing firms or certification bodies have failed to detect safety hazards in the course of an audit or certification process. In concrete terms this includes paying compensation to the families of workers who died in the fire and to injured workers.
- Provide full transparency and disclosure of audit reports of Ali Enterprises and Tazreen Fashions to contribute to effective remedy for the families of the victims and the survivors. In particular, disclose information about the buyers of Ali Enterprises to ensure that victims have access to redress from these companies.
- Fundamentally alter their reliance on accredited quality control firms, commonly paid by the factory owner, who often lack safety expertise and are not trusted by workers and trade unions, rendering their worker interviews implausible.
- Publish audit methodologies and reports of the factories inspected, and actively solicit engagement with worker representatives, trade unions and other labour rights organisations to ensure audits are part of a broader and on-going monitoring process.

5.5. Corporate responsibility to respect: factory owners

While buyers and auditors each have a responsibility to respect the rights of garment workers in their business relationships, **factory owners**, as employers, carry the primary responsibility to ensure safe working conditions for their employees. Each individual factory owner needs to take responsibility for ensuring the safety of his employees. In terms of redress and remedy for the victims of the reported fires, the first line of responsibility, under law and practice, is the direct employer of the workers affected, particularly when the injury has occurred as a result of negligence. In the presented cases deaths and injury were caused or exacerbated by illegal, unsafe building, faulty electrics or machinery, poor safety procedures and avoidable hazards such as blocked or inadequate fire exits. The current practice in Bangladesh is that buildings that are not fit for the purpose are turned into garment factories, often using illegal building constructions, to profit from the booming garment industry.

Under different conditions, worker representatives could be expected to address this issue with factory management, but in both Pakistan and Bangladesh, factory owners generally refuse to allow trade unions into their factories. In countries with generally higher factory safety standards, experience proves that involvement of workers in

safety committees, the availability of complaint procedures and the freedom to refuse work under unsafe conditions, has contributed to improved safety.[226]

Factory owners must ultimately be held accountable for their negligence in regard to the upholding of adequate safety standards in the workplaces they own and run. Simply expressing regret or in some cases, providing a minimal compensation to workers once an incident has occurred is not sufficient when it has been their decision to cut corners in regard to building safety, electrical and equipment maintenance that has put the lives of their own workers at risk. Furthermore, current management practices in the garment industries of Pakistan and Bangladesh inhibit victims' access to remedy. As proper registration of workers is lacking, currently it is up to the victims to prove they are eligible for compensation.

To prevent future tragedies and ensure remedy for the victims of the fire, garment factory owners in Bangladesh and Pakistan should, at a minimum:

- Ensure expert assessments of factory safety, improve the buildings accordingly, and put safety first.
- Change the present management attitude that leads to locking of gates, and keeping production speed at all times, thereby ignoring signs of approaching catastrophes.
- Allow genuine workplace representation and recognise the role that trade unions and workplace safety committees can play in upholding safety standards for workers.
- Contribute to and ensure full payment of compensation based on grief and loss of income, medical and psychological care, payment of wages (and in case factory closes negotiate severance) and continuance of worker employment.
- Develop adequate worker registration systems.

5.6. In conclusion

The cases presented in this report are not single incidents but indicates structural hazardous working conditions in the garment sector in both Bangladesh and Pakistan. To illustrate, since the Tazreen fire on 24 November 2012, another 28 factory fires have been reported in Bangladesh alone. This report demonstrates the urgent need for immediate and structural changes in the practices of government and business actors along the garment supply chain, in accordance with the internationally recognized State duty to protect human rights and the corporate responsibility to respect human rights.

[226] ILO, "The Role of Worker Representation and Consultation in Managing Health and Safety in the Construction Industry", Geneva: ILO, 2010. http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_160793.pdf

Fatal Fashion

Analysis of recent factory fires in Pakistan and Bangladesh: a call to protect and respect garment workers' lives

This report describes two recent factory fires ravaging the facilities of clothing manufacturers in Pakistan and Bangladesh. In September 2012 a fire raged at Ali Enterprises in Karachi, in November 2012 a factory fire broke out at Tazreen Fashions Limited in Dhaka; two companies producing for well-known European and American clothing brands and retailers. Hundreds of workers were killed in horrendous circumstances, and many others were severely injured. Sub-standard buildings, poor emergency procedures, blocked fire exits, overcrowded workplaces, and vastly inadequate control and auditing practices resulted in an extremely high death toll.

The two cases described in this report are symptomatic of an ailing system. They reflect systemic flaws on the level of government protection of human rights and a gross disrespect shown by the garment industry for workers' rights. The garment industry in both Bangladesh and Pakistan is notorious for low wages, demanding and unsafe working conditions, and the repression of unions. Workers are not organised and therefore not in the position to monitor or report freely about safety hazards.

In Fatal Fashion the Centre for Research on Multinational Corporations (SOMO) and the Clean Clothes Campaign (CCC) clarify the duties and responsibilities of the different actors involved in the described cases – manufacturers, brands, retailers, audit firms, certification bodies, and governments. In addition, SOMO and CCC assess to which degree the duties and responsibilities of the different actors have been met.

The report demonstrates the urgent need for immediate and structural changes in the practices of government and business actors in the global garment industry, in accordance with the internationally recognised state duty to protect human rights and the corporate responsibility to respect human rights.