

Compensating the Victims of Rana Plaza

How to Resolve the Funding Crisis?

Trade Union Advisory Committee to the OECD
and OECD Watch, 30th September 2014



“It will be unacceptable if all legitimate claims were not fully honoured. I am calling on all stakeholders to step up to the plate and ensure the Trust Fund target is reached.”

GILBERT HOUNGBO, ILO DEPUTY DIRECTOR-GENERAL

“And when, as in the case of Rana Plaza, there is failure to protect and respect human rights in the workplace then governments and companies must ensure effective remedies, including adequate compensatory payments.”

PROFESSOR JOHN RUGGIE

Trade unions and NGOs call on governments to seize the momentum and coordinate collective action to deliver the missing USD 20 million for the Rana Plaza Donors Trust Fund.



1. What's the background?

Just over eighteen months ago the Rana Plaza building in Savar collapsed killing and injuring thousands of garment workers. The tragedy placed the garment industry under the spotlight as never before. For the 1,138 families who lost loved ones and the more than 2,000 workers who suffered injuries, it was clear that compensation would be needed to help injured workers and families start the process of rebuilding their lives.

2. Has compensation been agreed for the victims of Rana Plaza?

Yes. In late 2013, the Rana Plaza Coordination Committee (RPCC)¹ set up a comprehensive and independent.

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¹ The Coordination Committee is comprised of the government - The Bangladesh Ministry of Labour and Employment; the employers - the Bangladesh Garment Manufacturers' Association (BGMEA), the Bangladesh Employers Federation (BEF); global and local trade unions - IndustriALL Bangladesh Council (IBC), National Coordination Committee for Workers' Education (NCCWE), IndustriALL Global Union; non-governmental organisations Bangladesh Institute of Labour Studies (BILS), Clean Clothes Campaign (CCC); and the global brands that source from Bangladesh - represented by El Corte Ingles, Loblaw and Primark.

process for delivering compensation- the “Rana Plaza Arrangement”. The aim was to establish a process that would serve as a model for other compensation cases, as well as for a national compensation system in Bangladesh. The Rana Plaza Arrangement is unprecedented in having the support of all major stakeholders. It has been signed by government, representatives of the local and international garment industry, and by local and international trade unions and NGOs.

3. What claims can be made and how?

Under the Rana Plaza Arrangement any worker who suffered injury or any family member who was dependent on the income of a killed worker is entitled to make a claim for the loss of income and medical costs, in line with ILO Convention No 121 on employment injury benefits².

Since March 24th 2014, injured workers and family members of the deceased have been able to file claims at an

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² C121 - Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121).

office in Savar, established with the support of the German development agency GIZ and the ILO, and, where necessary, to undergo medical assessments. Three independent claims commissioners have been engaged to oversee this, and report back to the RPCC. The aim was that all claims should have been processed within six months – by the end of September 2014.

4. How much is needed and how is it being collected?

The estimated amount required to cover the costs of all claims is \$40 million (29.4 million Euro). In January 2014, the Rana Plaza Coordination Committee established the Rana Plaza Donors Trust Fund to collect voluntary donations from companies and others. The ILO is the Trustee for the Fund, the sole purpose of which is to finance the compensation claims filed.

5. How much should individual brands pay?

The Coordination Committee did not set any minimum amount for individual brands to pay, or develop a formula for calculating payments. Instead the system relies on voluntary contributions. It was expected that the credibility of the Rana Plaza Arrangement, the magnitude of the disaster, the moral obligations arising from it, and the ability of the brands to pay would all combine to ensure that the funding target would be met. But this has proved not to be the case. Companies have either made donations smaller than the amount required, or have failed to make any contribution at all.



As of 30 September 2014, the total amount raised by voluntary company donations is just \$20 million, leaving \$20 million (50%) outstanding.

6. What's at stake?



Unless the funding gap is filled in the coming weeks it will not be possible to compensate in full workers and their families whose lives have been devastated by this disaster.

Half of the compensation claims were due to be paid in June 2014 and the remainder by the end of September 2014, when the office in Savar for processing the compensation claims will be wound down.

Furthermore, failure to implement the Rana Plaza Arrangement will undermine the long-term goal of providing a permanent and sustainable system for compensating victims of workplace injuries in Bangladesh.

7. Do governments have a mandate to help?

Yes. Governments have a clear mandate to help ensure that the victims of the Rana Plaza disaster are compensated in full and on time. Under the State duty to protect against business-related human rights abuse,³

3. United Nations Guiding Principles on Business and Human Rights, 2011.

States should have in place non-judicial grievance mechanisms that are capable of providing remedy as part of a wider system of ensuring access to effective remedy. Remedy includes financial compensation.

BOX 1: MEETING THE STATE DUTY TO PROTECT

On the occasion of the OECD meetings on Responsible Business Conduct held in June 2014, Ministers from Denmark, France, Germany, Italy, the Netherlands, Spain and the UK signed a statement recommending that “companies that sourced in Rana Plaza donate generously to the Trust Fund, either for the first time or with a second contribution to come to an appropriate amount”. This statement has been welcomed by the European Commission.

8. What should Governments do?

Governments should:

- i) Call on those brands that have already made a donation to increase their financial contribution to the Trust Fund and to publicly disclose this contribution on the Rana Plaza Arrangement web site;
- ii) Call on those brands that have not yet made a donation to make an adequate contribution to the Trust Fund and to publicly disclose this contribution on the Rana Plaza Arrangement web site;
- iii) Set out guidance for brands on the amounts to pay based on the principle of proportionality, which takes account of the volume sourced from Bangladesh and the ability to pay;
- iv) Secure government and brand commitment to an ILO-led project to develop workplace accident compensation coverage for workers in the readymade-garment sector in Bangladesh;
- v) Enter into high level discussions with the Bangladesh Government with a view to increasing significantly the contribution made by the Prime Minister's Fund to the Rana Plaza Donors Trust Fund;
- vi) Set up an informal Task Force to deliver a coordinate and collective response;
- vii) Call on brands to sign the Bangladesh Accord on Fire and Building Safety.

9. What should the European Commission and the United States do?

The European Commission and the United States should use the upcoming review (20 October 2014) of the EU-Bangladesh-United States “Sustainability Compact for continuous improvements in labour rights and factory safety in the Ready Made Garment and Knitwear Industry in Bangladesh” and its accompanying ‘roadmap’ to:

- i) Agree to a financing agreement and make compensation an integral part of the EU-Bangladesh-US Sustainability Compact;
- ii) Ensure that the Bangladesh Labour Act complies with international labour standards, as the 2013 amendments failed to do so – as confirmed by the ILO;

- iii) Ensure that workers in the Export Processing Zones are able to exercise their right to freedom of association and to collective bargaining (unions are currently prohibited in the EPZs);
- iv) Ensure that Bangladesh fulfills its commitments on labour inspection, in light of the conclusions of the ILO Committee on Application of Standards in 2014.

**BOX 2: NCPS TAKING A PROACTIVE APPROACH:
RANA PLAZA**

NCPS (Belgium, Canada, France, Italy, Poland) have already taken a proactive action in the aftermath of Rana Plaza: calling on their brands to sign the Bangladesh Accord on Fire and Building Safety; convening national meetings (all), developing human rights due diligence guidance (France) and a report on Responsible Business Conduct and implementing the OECD Guidelines (France and Italy).

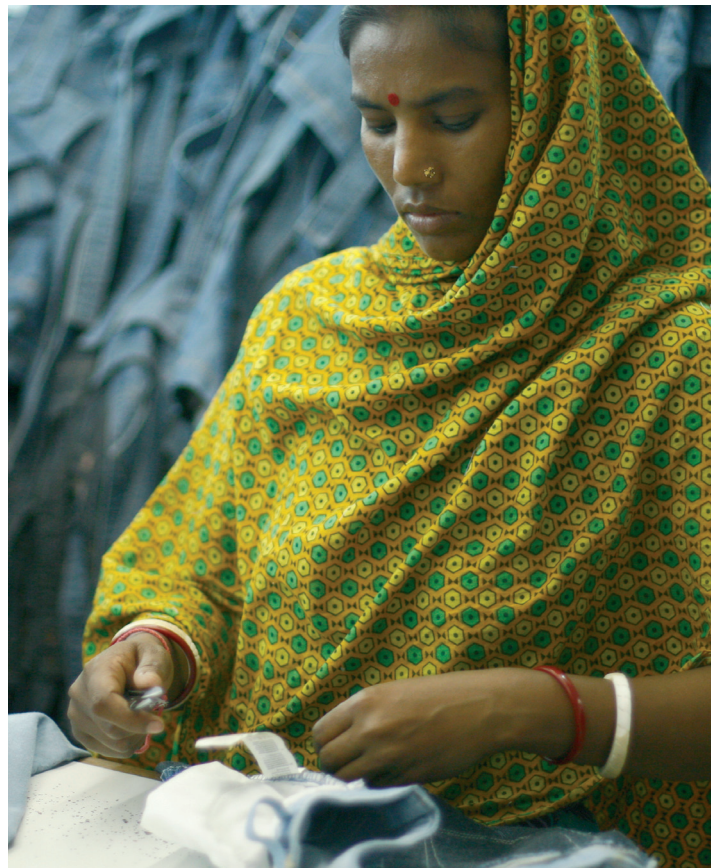
10. What should the OECD do?

The Working Party on Responsible Business Conduct should:

- Ensure that the planned proactive agenda project on Due Diligence in the Textile and Garment sector avoids replicating the failed corporate auditing of the past. The project should examine the issue of access to remedy including financial compensation. It should focus on analysing the measures taken to provide remedy with regard to the most severe risks of human rights violations:
 - Fire and building safety;
 - Wages;
 - Trade union rights (freedom of association and collective bargaining).

Donor governments of the OECD Development Assistance Committee should:

- Cover the operational costs of the Rana Plaza Arrangement, which are estimated to be \$715,000;
- Support the creation of a Compensation Fund for the survivors and families of injured workers of Tazreen and Aswad, two other major industrial disasters in Bangladesh, the victims of which are still awaiting compensation.



This table lists those brands that have been linked with factories in the Rana Plaza building. Other brands that have not been linked to Rana Plaza, including H&M, Gap and N Brown, have also made donations to the Trust Fund.

TABLE 1: BRANDS CONTRIBUTION TO THE RANA PLAZA DONOR TRUST FUND

Company	Country	Donation to Trust Fund	Amount Donated/Comment	Size of Annual Profit (where known)
Very small brands (estimated profit below \$20 million)				
Bon Marche	UK	✓	Undisclosed contribution to the Trust Fund – estimated to be very small. Contributed to the third round of short term relief payments made through Primark.	\$17.5 million
Grabalok	UK	✗		(-) \$84 million
Premier Clothing	UK	✓	Undisclosed contribution to the Trust Fund – estimated to be very small.	unknown
PWT	Denmark	✗	Claims to have made a donation via the Bangladesh Garment Manufacturers and Employers Organisation 31 July 2013.	\$12.9 million
Mascot	Denmark	✓	Initial, undisclosed donation to the Trust Fund.	\$8.9 million
Gueldenpfennig	Germany	✓	\$500,000	unknown
Camaieu	France	✓	Undisclosed contribution to the Trust Fund – estimated to be very small.	unknown
NKD	Germany	✗		unknown
KANZ/ Kids Fashion Group	Germany	✗		unknown
Manifattura Corona	Italy	✗		unknown
Small brands				
Adler Modemärkte	Germany	✗	Made a 20,000 donation to an undisclosed charity in Bangladesh.	unknown
Cato Fashions	USA	✗		\$61 million
YesZee	Italy	✗		unknown
Medium brands				
LPP	Poland	✓	Undisclosed contribution to the Trust Fund – estimated to be very small.	\$141 million
Mango	Spain	✓	Undisclosed contribution to the Trust Fund – estimated to be very small.	\$150 million
Benetton	Italy	✗	Undisclosed donation to a charity scheme run by BRAC.	\$145 million
Kik	Germany	✓	\$1 million (second payment made in July)	unknown
El Corte Ingles	Spain	✓	Undisclosed contribution to the Trust Fund – estimated to be very small.	\$234 million
C&A	Belgium	✓	\$690,000	unknown
Matalan	UK	✓	Unknown, but estimated to be around \$100,000.	\$166 million
The Children's Place	USA	✓	\$450,000 (estimate) via BRAC USA	\$60 - \$180 million
Ascena Retail	USA	✗		\$155.2
Roberto di kappa	Italy			unknown
Iconix (lee Cooper)	USA	✗		
Large brands				
Auchan	France	✓		\$300 million
Loblaws	Canada	✓		\$90 million
Primark	UK / Ireland	✓	Contributed \$1million directly to the Trust Fund. In addition Primark paid an estimated \$7 million directly to around 600 beneficiaries of the New Wave Bottoms Factory, which should be offset against its total contribution (total = \$8 million).	\$850 million
J C Penney	USA	✗		
LC Wakiki	Turkey	✗		unknown
Mega brands				
Inditex	Spain	✓	Undisclosed contribution to the Trust Fund – estimated at less than \$1 million. Claims to have contributed to the fund of the Bangladesh Garment Manufacturers and Employers Organisation.	\$3 billion
Carrefour	France	✗	Carrefour is one of the biggest buyers in Bangladesh.	\$2 billion
Walmart	USA	✓	\$1million (estimate) via BRAC USA	\$17 billion



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OECD Watch is an umbrella organisation comprising more than 80 non-governmental organisations (NGOs) from around the world, which is dedicated to undertaking campaigns and policy advocacy on the OECD Guidelines. OECD Watch's secretariat provides advice and support to NGOs on filing complaints under the OECD Guidelines. OECD Watch maintains an online database of all NGO cases submitted under the Guidelines, produces *Quarterly Case Updates* and has published a *Civil Society Guide to the Guidelines*.

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