

# **RANA PLAZA, GLOBAL SUPPLY CHAINS AND OFFSHORE MANUFACTURING: GENDER ISSUES AND EFFECTS**

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## **I. INTRODUCTION**

When the Rana Plaza building collapsed in Savar, Bangladesh in April 2013, it sparked a worldwide discussion on worker health and safety, the global supply chain and corporate social responsibility. Multinational corporations, such as Walmart, Primark and Loblaw, came under attack as consumers and advocacy groups called on these companies to take responsibility for improving the safety standards of garment factories. However, lost in the criticisms following the Savar tragedy were the voices of Bangladesh's garment workers – the majority of whom are low-income women. This “bottom-up” study was designed to understand the experiences of garment workers through their identities as women, caregivers, wage earners for low-income families, and individuals in a social and political environment that has yet to recognize their full equality.

This paper aims to demonstrate the impact of multinational corporations, offshore manufacturing and the complex global supply chain on female workers and the environments in which they work through a gendered lens. Issues concerning Bangladesh's garment industry are presented from the perspectives of workers, factory owners, labour lawyers and women's rights and workers' rights advocates – those at the ground level – to demonstrate the effect multinational corporations have on the health, safety, agency and responsibilities unique to women. The paper concludes that improvements to Bangladesh's garment sector undertaken by the local government and multinational corporations must address concerns that are particular to Bangladesh's low-income women in order to uphold the values of human rights and maintain an ethical global network.

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<sup>1</sup> This paper was drafted by Nabila Khan, J.D. Candidate, Osgoode Hall Law School of York University and intern at the International Women's Rights Project (IWRP). IWRP is a Canadian non-profit organization geared towards strengthening the capacity of women's NGOs in Canada and internationally to advocate for women's human rights. This paper was made possible with the generous guidance and support of the lawyers, advocacy workers, and staff at Bangladesh Legal Aid and Services Trust (BLAST). The contents of this paper are based on interviews with Hameeda Hossain (Ain o Salish Kendra), Md. Borkot Ali (BLAST), A.K.M. Nasim (Solidarity Centre), Dina Siddiqui (BRAC University) and the two brave former garment workers of Rana Plaza (who have chosen to remain anonymous). This paper would not be possible without them.

## II. THE GARMENT INDUSTRY

### A. Rana Plaza and Bangladesh's Garment Industry

Garment exports from Bangladesh to Canada and the US grew rapidly beginning in 1985 as the importing countries implemented quotas causing garment exports from Bangladesh to suddenly triple. Each year the garment industry fulfilled its quota, successfully convincing the US and Canada to continually increase quota amounts.<sup>2</sup> In 2003, Ottawa dropped its 18 percent duty on garments manufactured in Bangladesh as well as volume restrictions for shipping. Additionally, the Bangladeshi government established tax holidays and developed export enclaves, which enabled businesses to build or rent bonded warehouses in the country.<sup>3</sup> Canadian clothing producers and retailers took advantage of the lower tariffs and fewer quotas, rushing to find suppliers in Bangladesh.<sup>4</sup>

Data on the growth rate of garment exports from Bangladesh over 27 years – from fiscal year 1983-84 through 2009-2010 – shows that the amount of exports doubled every 3.5 years.<sup>5</sup> By 2008, foreign direct investment reached more than \$1 billion, primarily coming from Western companies.<sup>6</sup> The garment industry has been the critical driver of the globalization of Bangladesh through its connection to the global supply chain. The openness of the country's economy, a percentage of GDP measured using exports plus imports, increased by approximately 30 percent from 1980 to 2006.<sup>7</sup> The export-oriented garment and textile industry make up more than three quarters of this poor country's GDP.<sup>8</sup>

Bangladesh's garment industry boasts arguably the lowest paid garment workers in the world. T-shirt manufacturing in Bangladesh can be half the price of its nearest competitor, China, and industry analysis estimates exports to likely exceed China in ten years. While the Bangladeshi industry's cheap and unskilled

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<sup>2</sup> Mohammad Yunus and Tatsufumi Yamagata, "Bangladesh: Market Force Supersedes Control," *The Garment Industry in Low-Income Countries: An Entry Point of Industrialization*, ed. Takahiro Fukunishi and Tatsufumi Yamagata (New York: Palgrave Macmillan, 2014), 80.

<sup>3</sup> Khorshed Alam, Lala Blanch and Anna Smith, *Stitched Up: Women workers in the Bangladeshi garment sector* (London: War on Want, 2011), 2.

<sup>4</sup> Marina Strauss, "Lower tariffs, fewer quotas make Bangladesh the go-to apparel producer," *The Globe and Mail*, April 26, 2013, <http://www.theglobeandmail.com/news/world/lower-tariffs-fewer-quotas-make-bangladesh-the-go-to-apparel-producer/article11589221/> (accessed August 13, 2015).

<sup>5</sup> Yunus and Yamagata, *supra* note 2.

<sup>6</sup> Alam, Blanch and Smith, *supra* note 3.

<sup>7</sup> *Ibid.*

<sup>8</sup> Strauss, *supra* note 4.

workforce attracts the business of big name retailers, such as Loblaws Cos. – producers of Joe Fresh apparel – Primark and Wal-Mart, these retailers are increasingly becoming concerned about the effect of Bangladesh's working conditions on their brands. Recent media attention on the industry's low wages and unsafe factory conditions – especially since the collapse of Rana Plaza – has raised significant consumer criticism and suggested that association with Bangladeshi manufacturing may tarnish apparel brands.<sup>9</sup>

Rana Plaza was an eight-story building that housed several garment factories. The building collapsed on April 24, 2013, killing more than 1,100 workers and injuring more than 2,500.<sup>10</sup> Like many of Bangladesh's factory buildings, Rana Plaza was built with little regard to Bangladesh National Building Code (BNBC) compliance. The BNBC deals in minute details with fire protection standards, building material standards, structural design standards, and construction practices and safety standards.<sup>11</sup> Rana Plaza was built with extremely poor quality construction materials and on swampy unstable ground.<sup>12</sup> The night before Rana Plaza collapsed, visible cracks appeared on the building, resulting in the closure of other shops and banks in the building. The garment workers, however, were ordered to go to work despite the building condition, eventually resulting in their tragic deaths.<sup>13</sup>

The tragedy of Rana Plaza was not the first of its kind. Factory buildings in Bangladesh have a long history of shoddy construction and few safety precautions, creating some of the worst industrial disasters in history. Just five months before the Rana Plaza collapse, more than 110 people had died in the Tazreen Fashion Limited garments factory fire. Factory fires are common in the industry due to poor planning and infrastructure – in Tazreen, the ground floor housed two high voltage electricity transformers. Despite the frequency of fires, Tazreen, like many other garments buildings, had few fire safety measures and training in place. The building had only three narrow staircases that provided access to the ground floor,

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<sup>9</sup> Björn Claesson, *Deadly secrets: What Companies Know About Dangerous Workplaces and Why Exposing the Truth Can Save Workers' Lives in Bangladesh in Beyond* (Washington: International Labor Rights Forum, 2012), 8.

<sup>10</sup> Lamia Karim, "Disposable Bodies: Garment Factory Catastrophe and Feminist Practices in Bangladesh," *Anthropology Now* 6, no. 1 (2014): 52.

<sup>11</sup> Saiful Islam and Ishita Dutta, *Legal Initiatives on Workplace Deaths and Injuries in Bangladesh* (Dhaka: Bangladesh Legal Aid and Services Trust and Bangladesh Institute of Labour Studies, 2014), 13.

<sup>12</sup> "Bangladesh factory collapse blamed on swampy ground and heavy machinery," *The Guardian*, May 23, 2013, <http://www.theguardian.com/world/2013/may/23/bangladesh-factory-collapse-rana-plaza> (accessed August 14, 2015).

<sup>13</sup> Islam and Dutta, *supra* note 11.

and there was only one main exit on the ground floor, which was not suitably sized for the number of employees. The building had no fire doors or automated fire defense systems. There was also insufficient water sources and insufficient fire defense equipment, which the employees were not trained to use.

Other notable factory disasters include the Spectrum Sweater Factory collapse in 2005 in Savar, which killed 69 workers and injured 89, and the KTS Garments fire in 2006 in Chittagong, which killed 57 workers. In all of these preventable tragedies, including Rana Plaza, the large majority of victims were women.<sup>14</sup>

## **B. The Female Garment Worker**

In Bangladesh, female workers make up more than 85% of workers in the garment industry. While the growing female employment rates in Bangladesh's economy signals the potential for increased financial autonomy among women, the garment industry exhibits a highly exploitative environment for female workers.<sup>15</sup> The majority of the women in garment factories are young – aged 18-32 – unmarried, have low levels of education, and are migrants from rural areas of Bangladesh. Women work at the bottom of the garment factory “food chain,” primarily working as folders, cutters and sewers. Some are able to move on to become operators and supervisors, but male employees hold the majority of these positions. Women in the garment industry will rarely be put in charge of quality control. The difference in positions available and tasks performed, in addition to other factory conditions, make the experiences of female workers in the garment industry quite different from their male counterparts.

The “feminization” of the garment sector in Bangladesh is often attributed to the vulnerable nature of the female workers. The young, uneducated, low-income gendered status of the workers make them more prone to coercion by factory owners. Women workers often lack knowledge of their legal rights, and their poverty status and family pressures make it more likely that they will agree to work longer hours and in conditions they believe to be unsafe in order to hold their jobs.

### **i. Life in Rana Plaza**

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<sup>14</sup> Bangladesh Legal Aid and Services Trust, “Judgments,” *Bangladesh Legal Aid and Services Trust*, <http://blast.org.bd/judgements>.

<sup>15</sup> Alam, Blanch and Smith, *supra* note 3 at 1.

The gendered experience of female factory workers are best understood by listening to the narratives of the garment worker herself. The following is the story of Farah<sup>16</sup>, a former garment worker of Rana Plaza. Farah opened up about her experiences on how the working conditions in and eventual collapse of Rana Plaza has affected her life, in hopes drawing attention to the issues that thousands of women continue to face in their workplaces today.

Farah lived in Madaripur with her family until the age of 16, which is when she moved to Savar to work as a garment worker inside Rana Plaza. Farah's mother and father had fallen ill and could no longer work. Although she did not feel ready to begin working, Farah and her brother quickly became the only sources of income for her family. When she arrived in Savar, Farah was employed by Phantom Apparels on the 5<sup>th</sup> floor of Rana Plaza. She was paid 4300 BDT, which is roughly \$69 CAD, per month. At Phantom Apparels, she was given small tasks, such as cutting threads, of which she quickly grew frustrated. Farah wanted to become an operator and when she realized she could not achieve that in her current factory, she quit her job and moved to the 6<sup>th</sup> floor to work for New Wave Style, who employed her as an operator.

While Farah was able to pursue the type of work she envisioned, she found that she still had difficulty asserting her autonomy in the workplace. Both men and women were employed at New Wave, but she found it was more acceptable when men refused to perform tasks than women. Women at the factory rarely protested against their superiors, even when facing harsh working conditions. Farah notes she was often asked to work overtime – often up to 14 hours – and any refusal to would result in threats of termination. This was one of the major emotional stressors of the job, as her responsibilities did not end at the factory. Although both Farah and her brother worked to provide for the family, her brother was not expected to help with housework when he got home. Farah, however, would aid in household chores despite working late at the factory, which added to her exhaustion.

The forced overtime was primarily a result of tight production targets. A typical production target for one day would be 1500 ready-made garment pieces. Failing to meet these targets would result in verbal abuse and coercion to stay overtime. While New Wave provided overtime pay for its workers – usually 27 BDT per hour – there are many factories in Bangladesh that continue to refuse overtime pay. New Wave did not provide healthcare or accommodation allowance. Workers

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<sup>16</sup> Name has been altered to protect the identity of the interviewee.

with seniority at the factory were entitled to Eid bonuses (1500 BDT), target bonuses (200-300 BDT per month), and attendance bonuses (200-300 BDT per month). Unfortunately, these bonuses primarily applied to male workers.

Unlike many factories, New Wave did allow four months of maternity leave and housed an on-site doctor's office. Whenever a worker would fall sick, she would be sent to the company doctor who was able to provide her with free medication. Unfortunately, many of the health conditions faced by workers were associated with the factory environment. Farah reports experiencing energy deficiency often, due to requirements to work overtime, as well as muscle pains, headache and water bloating from having to stand for long hours. In terms of safety measures, New Wave provided fire drill training every month, which involved training on the use of the fire extinguisher.

On April 24, 2013, Farah arrived at work to discover concerns amongst her co-workers regarding the cracks in the building. Many workers refused to enter Rana Plaza that day, including Farah. However, Farah recounts that Sohel Rana's "people" quickly arrived to force workers inside the building. Some were beaten, or threatened to be beaten. Others, like Farah, were told they would be fired for refusing to work, especially since nothing was allegedly wrong with the building. She remembers being forced into the building as factory owners and even MPs – who all witnessed the cracks – stood by.

Once at her workstation, it was not long until Farah heard a loud crashing noise and saw people running. Farah remembers very little from that day and is still traumatized by what she does remember. She experienced some physical injuries, including a burn on her leg from an electrical wire. However, it is the psychological injuries that continue to affect her today. She experiences panic attacks regularly and her relationships with her friends and family have suffered since the accident. With the help of the Bangladesh Institute for Labour Studies (BILS), she has been receiving regular psychological treatment once a week and is currently learning physiotherapy with funding from BILS.

## **ii. Life as a Woman in Bangladesh**

Farah's story demonstrates only a few of the problems female garment workers face in Bangladesh. As with New Wave, the comparative advantages of hiring women in the industry are exploited by factory owners; women are more

patient, more controllable, less mobile and less likely to join a trade union.<sup>17</sup> These characteristics are a reflection of the heavily embedded gender roles in Bangladeshi culture, which often see women in traditional settings of the private realm. Garment work allows women to step into the public arena, but they continue to be weighed down by conventional understandings of the worth of women as compared to men. This is demonstrated by the large wage gap between men and women in the garment industry; even after controlling for education and experience, men receive 41 percent more pay.<sup>18</sup> In addition, 60 percent of men are granted paid leave compared to 35 of women. Women also have slim prospects for promotion in comparison to men, often regardless of their ability and ambition, as was the case with Farah at Phantom Apparels.

Female workers experience unique working conditions related to their gendered identity. They hold the low-skill jobs of the factory associated with traditional roles (i.e. sewing and cutting) and these are linked to the assembly line. This means that they are often denied breaks and forced to work more overtime hours because the completion of their tasks affects the next worker's ability to work at their stage in the assembly line. Certain assembly line tasks involve long hours of standing, which also contribute to diminished health.

The environment in this assembly line work is also hazardous as most factories do not have adequate ventilation or exhaust fans, and female workers often end up inhaling toxic substances, such as dye. Unlike New Wave, many factories in Bangladesh do not provide health services and most fail to provide sick leave. Additionally, although the *Maternity Benefit Act of 1950* requires employers to provide 12 weeks of maternity leave, very few do. Employers will assume motherhood means more time and energy spent at home rather than work; therefore employment will likely be terminated at this point. This is especially problematic considering garment workers contribute about 46 percent of family income and without their earnings, 80 percent of families would fall below the poverty level.<sup>19</sup>

The ability to contribute to family income results in an increase in self-confidence, self-esteem and independence among women in the garment sector. Female garment workers also able to experience a period of transition between childhood and adulthood, as many are able to avoid marriage and childbearing

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<sup>17</sup> Pratima Paul-Majumder and Anwara Begum, "The Gender Imbalances in the Export Oriented Garment Industry in Bangladesh," *Policy Research Report on Gender and Development Working Paper Series No. 12* (Dhaka: The World Bank, 2000), 3.

<sup>18</sup> *Ibid* at 7.

<sup>19</sup> *Ibid* at 13.

until their twenties. However, being young and unmarried also create situations of social insecurity for workers in the city. Although garment workers account for 2-3 percent of the total female population in Dhaka, they make up 11 percent of rape cases.<sup>20</sup> These women can experience sexual harassment and assault in the workplace as well as on their way to and from work. Garment workers are forced to work long hours, which means they often leave work well past sunset. As a result, they face an increased risk of sexual harassment and assault, particularly on public transit.<sup>21</sup> Thus, it is important that when envisioning safe work, we consider conditions affecting travel to and from work.

### III. WORKPLACE HEALTH AND SAFETY IN BANGLADESH

#### A. Legal Obligations

The *Bangladesh National Building Code* ('BNBC') deals with minute details regarding fire protection, building material standards, structural design standards and construction practices.<sup>22</sup> Major standards regarding workplace safety in Bangladesh is set out by the *Bangladesh Labour Act* ('BLA'). This Act contains provisions for measures and precautions in case of fire accidents, such as an emergency exits, clear markings showing exits, firefighting equipment, prohibition on locking doors from the outside, and fire training to workers. The *BLA* empowers a Factory Inspector to issue a notice to factory owners where there has been failure to implement these precautions. The Inspector is also empowered to rectify situations where the building or machinery may cause dangerous or harmful situations. The Inspector may prohibit the use of a dangerous building or machinery unless it is repaired or changed.<sup>23</sup>

The *BLA* also contains provisions that are particularly applicable to women. The maternity benefit provisions in the Act prohibit an employer from making a female worker do any work that is arduous in nature, involves long hours of standing or is likely to adversely affect her health, where she has notified the employer she is likely to deliver a child within ten weeks or has delivered a child within the preceding ten weeks.<sup>24</sup> The Act also states that workers have the right to maternity benefit for a period of eight weeks preceding the expected day of her

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<sup>20</sup> *Ibid* at 18.

<sup>21</sup> *Ibid*.

<sup>22</sup> Islam and Dutta, *supra* note 11 at 2.

<sup>23</sup> *Ibid*.

<sup>24</sup> *Bangladesh Labour (Amendment) Act* No. 30 of 22 July 2013, s. 45 (3).



delivery and eight weeks immediately following.<sup>25</sup> The *BLA* also provides that if an employer terminates the employment of a worker within six months before and eight weeks after her delivery, he cannot deprive an employee of her maternity benefits without sufficient cause.<sup>26</sup>

The *BLA* takes measures to ensure women are able to work despite having children and a family. In Section 94, it provides that establishments “wherein forty or more workers are ordinarily employed, there shall be provided and maintained suitable room or rooms for the use of children under the age of six.”<sup>27</sup> The Act also aims to provide protection for women by restricting the hours in which they may work – the employer cannot force a woman to work between the hours of 10 P.M. and 6 A.M. without her consent.<sup>28</sup> This provision is a reflection of the concerns regarding women’s safety when traveling at night. However, many factory owners fail to comply with this provision when keeping workers for overtime hours. Overtime hours, according to the *BLA*, should not exceed the additional two hours following an eight-hour shift.<sup>29</sup> However, workers often work more than the legally prescribed ten hours, and the overtime rate of twice the regular pay is also often not complied with.

## **B. Failure to Enforce**

### **i. The Legal System**

Bangladesh as a Member of the International Labour Organization has a duty to promote the objectives of the ILO. The ILO is obligated to further, among the nations of the world, programmes which will achieve “policies in regard to wages and earnings, hours, and other conditions of work calculated to ensure a just share of the fruits of progress to all, and minimum living wage to all employed and in need of such protection.”<sup>30</sup> The country has also ratified the *Forced Labour Convention, 1930* and *Hours of Work (Industry) Convention, 1919*. Bangladesh’s international obligations to safe work are reflected in its domestic laws, such as the

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<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid* at s. 50.

<sup>27</sup> *Ibid* at s. 94.

<sup>28</sup> *Ibid* at s. 109.

<sup>29</sup> *Ibid* at s. 100 and s. 108.

<sup>30</sup> International Labour Organization (ILO), *Constitution of the International Labour Organisation (ILO)*, Part III (d), 1 April 1919, available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62\\_LIST\\_ENTRIE\\_ID:2453907:NO](http://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO) [accessed 15 August 2015].

BLA, but the biggest problem plaguing the nation is enforcement. Despite having laws in place that require fire and building safety measures, reasonable hours of work, overtime pay and maternity leave, and environments that make it possible for women to meaningfully engage in work, factory owners fail to operate their factories in a way that achieves the goal of safe workplaces.

First, although there are laws in place, the resources are not there to actualize these laws. The *BLA* empowers Chief Inspectors of Factories to determine whether a factory is violating health and safety laws. They are to inspect the building and machinery, require the production of documents – such as registers, records, certificates and notices – in pursuance of the *BLA*, and they are to lodge complaints to the Labour Court for action against any person violating the *BLA*. While most inspectors have checklists that they must follow during inspections, they are not trained to catch potential dangerous situations that do not fall within the documents given to them. Furthermore, the number of factories in Bangladesh in 2012-2013 exceeded 5000. The number of inspectors needed to regulate the safety standards of all these buildings far exceeds the 56 currently appointed.<sup>31</sup>

In the case that an Inspector is able to successfully investigate and bring forward a complaint against a factory owner to the labour court, barriers to justice exist at the dispute resolution stage as well. Bangladesh has a limited number of labour courts, and they are all located in four geographical divisions. Thus, a worker from a rural area, such as Barisal, is unlikely to want to spend the time and money to travel to Dhaka to have her case heard. There is also a large backlog of cases at the labour court. A judge at one labour court sits there approximately two to three days per month, making it difficult for workers to have their disputes resolved swiftly.

In light of the current issues at the court, mediation has become a growing alternative dispute resolution mechanism for labour disputes in Bangladesh. This is both time-effective and cost-effective. However, Banglaeshi labour lawyers have concerns about the lack of oversight in these alternate procedures. There are no mandatory provisions governing mediation, and in many situations workers leave the mediation sessions feeling harassed and pressured to accept less than they deserve.

## **ii. Police and Government Action**

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<sup>31</sup> Islam and Dutta, *supra* note 11 at 4.

When it comes to treatment of the garment worker, her status makes it easy for factory owners to exploit her. She is young, unmarried and not expected to be the breadwinner of the family. Therefore, employers feel it is acceptable to pay her less, make her work longer, and treat the employee poorly – whether through harassment or abuse – during the employment relationship. This exploitation by factory owners is unchecked by law enforcement for several reasons. As many advocacy organizations, such as the Bangladesh Legal Aid and Services Trust (BLAST) and Ain-O-Shalish Kendra (ASK), have criticized, Bangladesh’s police have a history of abusing their power.

The police force is regularly used by the government to serve petty political interests. Since many garment factory owners have close links to politicians, police are reluctant to investigate them. Furthermore, improper police training, lack of proper accountability mechanisms, infrastructural inadequacies and poor salary structure all contribute to improper policing and widespread corruption. The corrupted appointment system provides an incentive to police officers to take bribes,<sup>32</sup> once again making it easier for factory owners to get away with non-compliance. This makes it clear that in order to ensure workplace health and safety, the police system must also be targeted if labour laws are to have an impact in the country.

Additionally, advocacy workers in the garment industry have significant concerns regarding the lack of governmental action in establishing a regulatory framework. Bangladesh may have the written laws prohibiting unsafe working environments and worker harassment, but the government has done little to enforce these laws. The government has generally taken a non-interventionist role in the industry and has allowed businesses to operate without any significant regulatory mechanisms. Thus, the government has been unable to deal with the spotlight that has been placed on Bangladesh as a result of the tragedies at Tazreen and Rana Plaza and the international outcry that followed. While a decade ago complaints regarding factory conditions rarely made it to the ears of anyone outside the factory, Bangladesh’s garment industry is now a global hot topic. It will be difficult for the government to justify its lack of action even from a costs perspective, as it will be more costly to deal with the publicity affecting the industry than making regulations that will protect it.

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<sup>32</sup> Zahidul Islam, *Ensuring Right to Freedom from Torture and Arbitrary Police Action: A Study on the Implementation of Safeguards on Arrest, Custodian Violence, and Pre-Trial Detention* (Dhaka: Bangladesh Legal and Services Trust, 2013).

## IV. TAKING RESPONSIBILITY

### A. Corporate Social Responsibility

International attention regarding Rana Plaza has largely been directed towards multinational companies, as many consumers discovered that the brands they wore were being produced within the building. This link between Western consumers and the killed and injured workers resulted in significant criticism of the perceived intermediary – the brands. How responsible were these brands for what had occurred at Rana Plaza? The global supply chain is a complex network. While a brand may contract with a supplier in Bangladesh to produce a certain number of garments, in order to meet those demands, the suppliers will subcontract the work to other garment factories. Some factories will be as large as those within Rana Plaza. Others can be as small as four women in an apartment with sewing machines. Thus, holding a brand legally responsible when the supply chain becomes deeply tangled becomes difficult.

However, multinational corporations have taken the step to ensure some degree of legal responsibility through the Bangladesh Accord on Fire and Safety (the Accord). The Accord is an independent, legally binding agreement between brands and trade unions to enable a safe work environment free of fires and building collapses. It is essentially a private contract requiring the parties to ensure the independent inspection of factories, public disclosure of factory reports and corrective action plans, commitment by brands to provide sufficient funds for remediation, democratically elected health and safety committees in all factories, and extensive training programs for workers.<sup>33</sup> The Accord can be distinguished from the Alliance for Bangladesh Worker Safety (the Alliance), which was also founded by brands to protect worker safety in ways similar to the Accord, but is not legally binding on the members.

Members of both the Accord and the Alliance have contributed to compensation for the victims of Rana Plaza. The Rana Plaza Donors Trust Fund was set up by the International Labour Organization in January 2014 to collect contributions from buyers and other private donors and hold them in trust for victims and victims' families. Following the claims process, an Independent Commissioner makes recommendations on payment amounts in order to ensure

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<sup>33</sup> Accord on Fire and Building Safety in Bangladesh, "About the Accord," *Accord on Fire and Building Safety in Bangladesh*, <http://bangladeshaccord.org/about>.

equitable distribution of funds.<sup>34</sup> The first set of compensation payments were handed out one year following the tragedy, in April 2014. The \$700 payments to the victims were criticized as being significantly low in consideration of the losses suffered and needs of the surviving dependents and family members. At the time, only \$15.3 million had been collected for the fund, falling short of the \$40 million goal. Although 29 major brands were using a factory inside the building, only half of those companies contributed to the compensation fund, including Loblaw, Primark, BonMarche and Mango.<sup>35</sup> Most recently, Italy's Benetton joined the fund after a worldwide petition organized by international advocacy group Avaaz presented 1 million signatures calling on the company to contribute. The fund is still short approximately \$8 million from its goal of \$40 million.<sup>36</sup>

While donations from the brands are not an admission of responsibility, they nevertheless represent the connection brands have to the workers at the other end of the supply chain. Brands may not have legal duties to the workers, but they have ethical responsibilities from the simple fact of benefitting from the conditions within which their products are manufactured. Brands should engage in deeper investigation into and greater oversight regarding the manufacturers they contract with to produce their clothing. It is no secret that each of these manufacturers named in the contract subcontract with other manufacturers to meet the needs of the buyers. It is the subcontractors that seldom follow labour and human rights laws. Brands should not hide behind the ignorance of not knowing who these subcontractors are and whether the rights of the workers in those smaller factories are being respected. The mere fact of profiting from these subcontracts makes it an ethical obligation for the brands to make themselves aware of what is happening at the other end of the supply chain and regulate it.

## **B. A Comprehensive Human Rights Based Approach**

While compensation and the agreements for building and fire safety are imperative to creating safe and healthy workplaces for garment workers, there still

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<sup>34</sup> The Rana Plaza Coordination Committee, "Rana Plaza Arrangement," *Rana Plaza Arrangement*, <http://www.ranaplaza-arrangement.org/mou/governance>.

<sup>35</sup> Tanya Talaga, "Rana Plaza survivors get first compensation payments," *Toronto Star*, April 24, 2014, [http://www.thestar.com/news/world/2014/04/24/rana\\_plaza\\_survivors\\_get\\_first\\_compensation\\_payments.html](http://www.thestar.com/news/world/2014/04/24/rana_plaza_survivors_get_first_compensation_payments.html) (accessed August 14, 2015).

<sup>36</sup> Rebecca Smithers, "Rana Plaza disaster: Benetton donates \$1.1m to victims' fund," *The Guardian*, April 17, 2015, <http://www.theguardian.com/world/2015/apr/17/rana-plaza-disaster-benetton-donates-victims-fund-bangladesh> (accessed August 14, 2015).

remain many concerns regarding factory conditions that have not yet been addressed by multinational companies. The Accord is a positive step towards worker safety, but it only protects workers from the extraordinary – not the ordinary, everyday violations of their rights. Despite ratifying the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),<sup>37</sup> Bangladesh has yet to enforce these principles of equality. International efforts to affect change in Bangladesh’s garment industry must consider the large majority of women in the garment industry, and that weak building infrastructure and lack of fire safety measures are not the only thing affecting the health and safety of women in Bangladesh.

Justice for workers begins with respecting them as human beings, first and foremost. Most garment workers feel they are treated as disposable tools, used simply as a means to an end. They are not viewed as persons with visions and desires and who have families of their own. They are persons who must make a living for themselves and their loved ones; they are persons who become hungry and exhausted during long shifts; they are persons who aspire to achieve more in their work and personal lives.

Furthermore, recognition of their personhood also means recognition that they have been wronged; garment workers want their employers to take responsibility for the wrongs committed against them and they want this done publically. Many of the survivors of Rana Plaza especially desire the public prosecution of Sohel Rana and those who forced the workers into a building they knew was unsafe. They want it publically shown that devaluing their lives is wrong. They want other garment factories to create environments that are respectful of a worker’s worth and dignity, and recognize that this global supply chain would not be possible without them.

Sustained campaigning by women workers in 2010 raised the minimum wage in Bangladesh to approximately 3,000 BDT for low-skilled work in garment factories, which still fell short of the level considered to be a living wage.<sup>38</sup> The increases also had little effect on the distribution of salary. It has become normalized in the industry to not pay a worker on time, or not pay her what she deserves. Factory owners will often provide excuses – such as having to pay for excess fabric when a garment has gone to waste – when failing to pay a worker. Workers, in turn, are unable to pay their landlord and lose access to their home. This is especially problematic for a woman in Bangladesh who loses her sense of

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<sup>37</sup> Alam, Blanch and Smith, *supra* note 3 at 2.

<sup>38</sup> Alam, Blanch and Smith, *supra* note 3 at 6.

security as a result. Workers need increased bargaining power, if they are going to fight the present exploitation they face. A sustainable work environment can only be achieved in the long term through the advocacy of garment workers.

## **V. CONCLUSION**

The future of Bangladesh's garment industry is in the hands of several groups, but it begins with an understanding of the experiences of the garment worker. She is the expert on her own life, and she knows what she needs to feel healthy, safe and secure in her workplace. There are several internal and external factors that affect workplace conditions. The relationship between the employee and employer can only be reconciled through a change in attitude regarding the value of women in Bangladesh, and specifically women from low-income backgrounds. Owners must be educated about the benefits of a healthier employee-employer relationship, including the reduced costs associated with hiring workers for the long-term and allowing them to join trade unions, which in turn allow owners to enforce order without violence.

Where the employment relationship is abusive, exploitative and unlawful, better mechanisms are needed to ensure the police force, labour courts and regulatory bodies are equipped to properly investigate these situations and enforce compliance with the law. This means better training and oversight in relation to the police force to deal with criminal behaviour on the part of the owners, and better training and resources in the labour courts to deal with complaints regarding unlawful working conditions. The large majority of workers, advocacy groups and other stakeholders consulted believe many of the envisioned changes can only be properly achieved through action by the Bangladeshi government, who have to this point in time inadequately dealt with the issues plaguing the garment industry.

Although many of the required long-term changes to the garment industry must come from within the country – by the people of Bangladesh and its government – Western companies that rely on Bangladesh's garment industry are not admonished of their responsibilities. The cheap labour in Bangladesh enable brands to reap large profits that they would not be able to achieve without the female garment workers at the bottom of the global supply chain. They have an ethical responsibility to these workers, because it is by affecting their lives that brands are able to gain the profits they do. The decisions made by these companies about which suppliers to contract with, how many garments to order, the rate they are willing to pay for these garments, and when they want these

garments prepared by, all have an impact on the garment worker. These decisions affect her wage, the hours she works, how well she is able to provide for her family and attend to her domestic responsibilities, and her sense of security as she travels to and from work, only to name a few.

While the brands have taken a positive step towards accepting responsibility for the workers at the other end of the supply chain through the Accord, and to some degree through the Alliance, a comprehensive approach to carrying out their ethical responsibilities and ensuring they conduct their business through a human rights framework – regardless of whether they are legally liable in failing to do so – includes a wider consideration of their influence on the industry. Their ethical duties do not stop at ensuring no other building collapses or factory fires occur on the premises in which they do business. They must be aware that the environment in which they are choosing to operate, which is a highly exploitative environment for women workers, makes it possible to achieve their large profits. If they are going to benefit from this environment, they must do so in an ethically oriented manner, ensuring that their garments are not stained with human rights violations.