



Workers' Right to Compensation after Garment Factory Disasters: Making Rights a Reality

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The purpose of this report is to describe, compare, and draw lessons from three recent schemes to pay compensation to injured workers and the families of those killed in garment factory disasters: the Rana Plaza Arrangement (Bangladesh), the Tazreen Claims Administration Trust (Bangladesh), and the Ali Enterprises compensation arrangement (Pakistan). After comparing these compensation schemes, the report draws out their guiding principles, examines their challenges and lessons learned, and makes recommendations for industry, government, and civil society.

This report was commissioned by C&A Foundation. C&A Foundation, which works to make the fashion industry a force for social and environmental good, was an instrumental player in facilitating, implementing, and funding the Tazreen Claims Administration Trust. In the interest of capturing the facts of these new compensation schemes and drawing lessons from their challenges and achievements, C&A Foundation approached Dr Rebecca Prentice at the University of Sussex to research and write this report.

Dr Prentice is an expert on health and safety in the global garment industry, and Principle Investigator of a three-year study titled, 'Compensating Workers after the Rana Plaza Collapse: A Qualitative Study of Activism and Corporate Social Responsibility' (2015-2018). Dr Prentice is also co-editor, with Geert De Neve, of *Unmaking the Global Sweatshop: Health and Safety of the World's Garment Workers* (University of Pennsylvania Press, 2017).

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Cover image: *Survivors of Tazreen Fashions protest in front of press club demanding punishment for the Tazreen Fashions factory owner and compensation for the victims of the 2012 factory fire, in Savar, some 30 kilometres north of Dhaka.*

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Executive Summary

In recent years, a number of garment factory fires and building collapses have taken place in countries where the statutory provision of workers' compensation for death and injury at work is weak or non-existent. In response to these disasters, industry stakeholders have developed innovative new schemes to award compensation to injured workers and the families of those killed, consistent with international standards for compensating occupational death or injury.

The \$30 million Rana Plaza Arrangement, which was completed in 2015 to compensate thousands of individuals affected by the 2013 collapse of a garment factory building in Savar, Bangladesh, was the first of such compensation schemes.¹ In their development and implementation, the common elements of these schemes are:

- Coordination and/or technical assistance from the International Labour Organization (ILO)
- Adherence to the standards of ILO's Employment Injury Benefits Convention No. 121
- Collaboration among civil society, industry, and government stakeholders
- Cooperation between international and national levels
- Funding through voluntary donations, mostly from global apparel companies

This report compares three major compensation schemes of this kind: the Rana Plaza Arrangement, the Tazreen Claims Administration Trust, and the Ali Enterprises compensation arrangement. It draws out guiding principles, lessons learned, and best practices for workers' compensation for death or injury in global supply chains in the absence of a reliable, rights-based national employment injury insurance system in the producer country. The report contains policy recommendations aimed at global apparel companies, manufacturers, civil society, and governments.

With the commitment and cooperation of industry, government, and civil society, survivors of garment factory disasters can be compensated to internationally recognised standards, even in the absence of a national employment injury insurance system. However, these

kinds of *post facto* compensation schemes should not interfere with the establishment of national employment injury insurance systems in garment-producing countries, and indeed can be used as an opportunity to help develop technical capacity, administrative infrastructure, and political will for such national-level systems.

KEY RECOMMENDATIONS

ILO's Employment Injury Benefits Convention No. 121 provides an internationally recognised standard for calculating and delivering compensation to injured workers and the families of workers killed in the workplace. In the wake of garment factory disasters where there is no statutory provision of workers' compensation that meets this standard, this Convention has been successfully applied *post facto* in the design and implementation of multi-stakeholder compensation schemes. However, the Convention was not intended to be used in this way, and doing so creates many difficulties that are not easy to overcome. The recommendations of this report are therefore divided into two parts: first to explain and emphasise the need for comprehensive national employment insurance schemes, and second to highlight the lessons learned from multi-stakeholder efforts to provide compensation to workers in the absence of such insurance.

1. RECOGNISING THE NEED FOR NATIONAL EMPLOYMENT INJURY INSURANCE SCHEMES

- Governments of garment producing countries should develop sustainable, comprehensive, and rights-based national employment injury insurance schemes. Technical assistance from the ILO can ensure that these schemes meet the standards of ILO Convention No. 121.
- Global apparel companies should advance the call for national employment injury insurance schemes by lobbying the governments of countries from which they source.
- Labour rights groups should continue to campaign for the development of national employment injury insurance schemes in garment producing countries.

- Global apparel companies should insist that in the absence of a national system, their contracts with individual supplier factories specify that private injury insurance be purchased to protect workers.
- Garment industry employers' associations and global apparel brands must recognise and accept that meeting international standards of worker compensation is likely to raise production costs but also provides important legal and financial protections for employers.

2. RESPONDING TO FACTORY DISASTERS WHEN THERE IS NO EMPLOYMENT INJURY INSURANCE SCHEME THAT MEETS STANDARDS OF ILO CONVENTION NO. 121

- When a factory disaster occurs where there is no provision of workers' compensation for death or injury at work that meets the standards of ILO Convention No. 121, apparel companies, government, local employers, and labour rights groups must actively collaborate to create a post facto compensation arrangement that meets these international standards.
- When a disaster in a supplier factory causes injury or death, apparel companies must support compensation efforts regardless of whether the supplier was undertaking work directly authorised or not. Support can mean participating in high-level negotiation and coordination activities, but at a minimum requires financial commitment to help meet workers' right to compensation in accordance with international standards of ILO Convention No. 121.
- Labour rights groups should coordinate international campaigns to press companies to contribute if they do not voluntarily donate sufficient funds to meet the compensation standards of ILO Convention No. 121.
- Government leaders in the countries where apparel companies are headquartered should call on those companies to contribute to compensation efforts.

GUIDING PRINCIPLES OF POST FACTO COMPENSATION SCHEMES

When factory disasters occur in the absence of a national employment injury insurance scheme, the following principles should guide the efforts of industry stakeholders to create a rights-based *post facto* compensation scheme:

- **A single approach:** A single method should be used to calculate compensation, with donor contributions consolidated into a single fund for disbursement to beneficiaries.
- **Rights-based benefits:** Compensation should be calculated based on international standards, namely ILO's Employment Injury Benefits Convention No. 121, and paid as an internationally recognised right, not as a form of charity.
- **Respecting national sovereignty:** The compensation schemes should give preference to national laws and institutions wherever they do not fall below the international standards of ILO Convention No. 121.
- **Multi-stakeholder cooperation:** Stakeholders from industry, government, and civil society must collaborate actively to create a compensation arrangement that meets international labour rights standards.
- **Voluntary donations:** With no binding legal mechanism to compel financial contributions, voluntary donations must be collected on the expectation that these will come from employers and government, but mostly from global apparel companies sourcing from the affected factory.
- **Engaging with the survivors:** Compensation schemes must engage with survivors sensitively and effectively, and ensure that their representatives participate in the governance of the scheme.
- **Transparency:** Compensation schemes must be systematic, predictable, and transparent, with robust mechanisms of communication with beneficiaries as well as an independent audit.

List of Abbreviations

BDT	Bangladeshi Taka
BGMEA	Bangladesh Garment Manufacturers and Exporters Association
BILS	Bangladesh Institute of Labour Studies
BLAST	Bangladesh Legal Aid and Services Trust
BRAC USA	United States affiliate of BRAC, Bangladesh's largest NGO
CCC	Clean Clothes Campaign
CRP	Centre for the Rehabilitation of the Paralysed
EOBI	Employees' Old-Age Benefits Institution (Pakistan)
FAQs	Frequently asked questions
ILO	International Labour Organization
ILRF	International Labor Rights Forum
ITGLWF	International Textile, Garment and Leather Workers Federation
MoLE	Ministry of Labour and Employment (Bangladesh)
MoU	Memorandum of Understanding
NGO	Non-governmental organisation
NWB	New Wave Bottoms (a factory in Rana Plaza)
NoA	Notice of Award
OECD	Organisation for Economic Cooperation and Development
PILER	Pakistan Institute of Labour Education and Research
RPA	Rana Plaza Arrangement
RPCA	Rana Plaza Claims Administration
RPCC	Rana Plaza Coordination Committee
Rs.	Pakistani Rupee
SESSA	Sindh Employees' Social Security Act (2016)
SESSI	Sindh Employees' Social Security Institution
SHC	Sindh High Court
TCA	Tazreen Claims Administration Trust
VBA	Visual Basic Application

1 Background on Compensation Schemes for Factory Disasters

Over the past two decades, deadly garment factory fires and collapses have occurred with alarming frequency, particularly in Bangladesh. These include the 2012 fire in the Tazreen Fashions factory, in which over 112 people died, and the 2013 collapse of the Rana Plaza garment factory building that killed 1,134 people and injured hundreds more. The enormity of Rana Plaza shocked the world and shone a spotlight on the apparel industry's global supply chains, and has stimulated new efforts to prevent factory disasters and pay compensation to injured workers and the families of those killed.

Factory fires and collapses are caused by both direct and systemic factors. The direct causes include weak building structures, the presence of fire hazards, poor fire safety procedures, the repurposing of buildings not designed for industrial use, and poor regulatory capacity to enforce local and national building codes.² The systemic causes have to do with how the garment industry is structured. Global competition has created downward pressure on wages and working conditions, and disincentivised many garment-producing countries from strengthening labour laws and practices. Where state inspection regimes are weak, private audits and certifications have not made dramatic improvements to labour standards.³ The suppression of labour rights, including freedom of association and the ability to form a trade union, make it difficult for workers to refuse unsafe work. For these reasons, preventing factory disasters requires both technical approaches and worker empowerment.

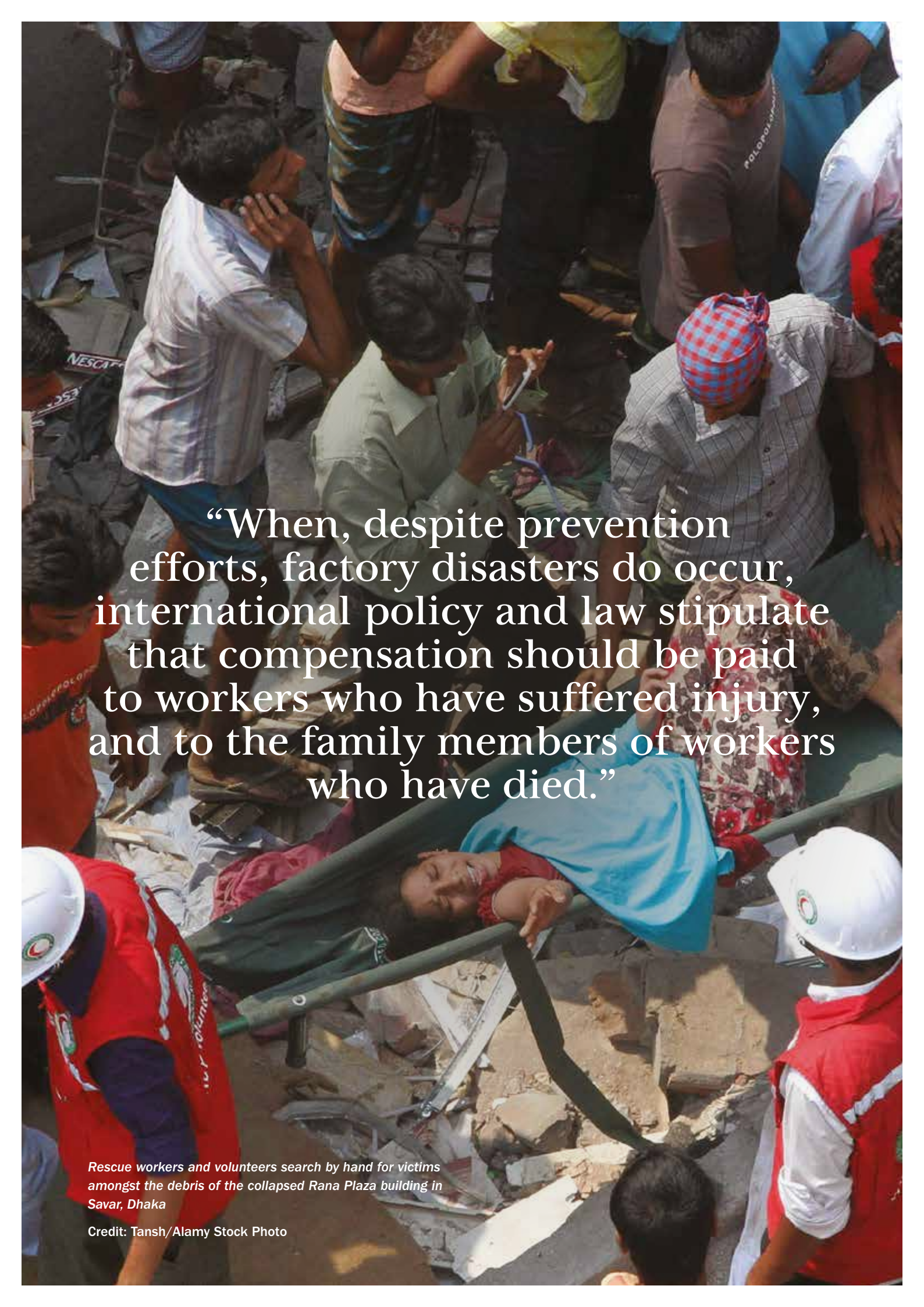
In response to the Rana Plaza collapse, new initiatives to improve factory safety have included the 2013 Accord on Fire and Building Safety in Bangladesh, a legally-binding agreement signed by multinational apparel companies and global trade unions to inspect and upgrade factories, and the Alliance for Bangladesh Worker Safety, a smaller inspection-and-remediation programme that does not involve trade unions in the same way. However, even with significant progress in remediating unsafe workplaces, technical solutions alone are not enough to raise labour standards, and efforts to empower workers have fallen behind.⁴

When, despite prevention efforts, factory disasters do occur, international policy and law stipulate that it is necessary to provide compensation to workers who have suffered injury, and to the family members of workers who have died. The UN Guiding Principles on Business and Human Rights, which was unanimously endorsed by the UN Human Rights Council in 2011, highlights the right to remedy in response to human rights violations which can include the right to a safe workplace.⁵

More specifically, the ILO's Employment Injury Benefits Convention No. 121 (1964) sets forth a standard that in the case of occupational injury or death, workers have a right to:

- Compensation for lost wages (including cash benefits to dependants of deceased workers)
- Medical and allied care
- Rehabilitation services

Under ILO Convention No. 121, compensation for lost wages is calculated as a percentage of the worker's earnings at the time of the injury, paid for the duration of the impairment. Dependants of workers killed at work have a right to the replacement of a percentage of the worker's earnings for the entire period of eligibility (e.g., for the child of a deceased worker, this is likely to be until the age of legal maturity).⁶ In either instance, payments for long-term impairment or death should be paid to beneficiaries periodically, in the form of a pension.



“When, despite prevention efforts, factory disasters do occur, international policy and law stipulate that compensation should be paid to workers who have suffered injury, and to the family members of workers who have died.”

Rescue workers and volunteers search by hand for victims amongst the debris of the collapsed Rana Plaza building in Savar, Dhaka

Credit: Tansh/Alamy Stock Photo

WORKERS' RIGHT TO COMPENSATION AFTER GARMENT FACTORY DISASTERS:
MAKING RIGHTS A REALITY

The rights outlined in ILO Convention No. 121 are narrow, but are intended to represent just one component of an integrated framework of state social protection policies that might include benefits payable in the event of unemployment, disability, maternity, or old age.⁷ Under ILO Convention No. 121 injured workers and the dependants of those killed at work are not automatically entitled to payments for their pain and suffering, although depending on national laws, such payments may be pursued through a lawsuit. The ILO works to help countries establish national employment injury insurance schemes that conform to the standards of Convention No. 121 (see Box 1).

BOX 1: DEVELOPING EMPLOYMENT INJURY INSURANCE IN BANGLADESH

Post facto compensation schemes like the Rana Plaza Arrangement are complex and costly to administer, and leave out workers injured or killed in smaller-scale disasters that do not draw worldwide attention. For this reason, the Bangladesh government's National Tripartite Plan of Action on Fire Safety and Structural Integrity in the Ready-Made Garment Sector (2013) includes a provision for reviewing and revising national policy on workers' compensation. Since 2015, the ILO has been working with the government of Bangladesh to develop a permanent, national employment injury insurance scheme. Such a scheme will deliver timely and adequate compensation to victims of workplace accidents consistent with the international standards of ILO Convention No. 121. Compensation benefits will include long-term periodical payments to disabled workers or the dependants of those killed in the workplace, and access to medical care and rehabilitation services for injured workers, which can help them reintegrate into the workforce. The development of this scheme, which has successfully completed a preliminary feasibility study, has been funded by the government of Germany. As a low-cost, no-fault scheme, national employment injury insurance is intended to benefit both workers and employers. A 'bridging solution' has been proposed by labour rights groups as an interim measure while the national scheme is being developed.⁸

At the national level, countries have responded to these ILO standards in different ways. Some countries have adopted an 'employer liability' approach, in which individual employers are responsible for providing compensation to workers harmed in the workplace, without any need for the worker to prove that the injury was the employer's fault. Compensation is paid directly to workers, or to their survivors in the event of a workplace death; employers often purchase private insurance to cover the costs of such claims. Although a well-constructed employer liability system can meet the standards of ILO Convention No. 121, it often provides inadequate protection for workers because it can be difficult to enforce. If a business goes bankrupt or is destroyed in a large-scale disaster, employers may be able to evade paying compensation, and survivors may have to turn to costly, time-consuming, and uncertain redress in the courts. A weakly-enforced employer liability system that does not meet the standards of ILO Convention No. 121 has been the situation in Bangladesh for many years.⁹

A 'social protection' approach to employment injury insurance maintains the same no-fault principle of an employer liability system, but shares the costs of occupational injuries more broadly across a whole industry or labour market. Benefits in the case of occupational injury or death are paid by a centralised scheme, usually funded by employer contributions. Workers or their survivors do not need to sue the employer to receive compensation, and the employer is protected from lawsuits over lost payments and the need for medical care. Risk is pooled collectively across industries, making the insurance less expensive. The ILO promotes social protection systems of employment injury insurance as more reliable than an employer liability approach.¹⁰ National employment injury insurance systems of this kind exist in some garment-producing countries, such as Cambodia and Pakistan, although in many cases the provision of compensation falls below international standards.¹¹

In the absence of a national employment injury insurance system (e.g. Bangladesh), or in countries where the system does not meet international standards (e.g. Pakistan), global apparel companies have been called upon to step into the breach and pay compensation to injured workers and the families of those killed in supplier factories. This type of large-scale, industry-funded compensation can be divided into 'first generation' and 'second generation' schemes.


WORKERS' RIGHT TO COMPENSATION AFTER GARMENT FACTORY DISASTERS:
MAKING RIGHTS A REALITY

First generation compensation schemes began with the Spectrum Relief Fund, created in response to the 2005 collapse of the Spectrum sweater factory in Savar, Bangladesh, in which 80 workers were injured and 64 lost their lives. The International Textile, Garment and Leather Workers Federation¹² (ITGLWF) and the multinational apparel company, Inditex, developed the Spectrum Relief Fund to provide long-term 'financial relief' to injured workers and bereaved families.¹³ The factory owner and a small number of brands that had sourced from Spectrum contributed to the fund. Although the design and implementation of the scheme took years (with payments not completed until 2011), the Spectrum Relief Fund became a model for future agreements by proving that it was possible for apparel companies and labour rights groups to reach a compensation deal.¹⁴ The scheme also developed some tools for calculating and administering payments to survivors. In the Spectrum Relief Fund as in several other first generation schemes, recipients were compensated not only for lost wages and medical care, but also for their 'pain and suffering'; as a condition of accepting payments from the fund they waived the right to pursue further redress in the courts.

The 2013 Rana Plaza collapse represented a turning point in the compensation of garment workers in global supply chains. The scale of the collapse and resulting public outrage gave urgency as never before to the need for a coordinated, mass claims compensation scheme that would fairly and equitably support workers and the families of those killed. Pressure on stakeholders to develop such a scheme, combined with the commitment of the ILO to provide technical assistance and neutral coordination, created the conditions for the ground-breaking \$30 million Rana Plaza Arrangement (RPA). A 'second generation' of compensation schemes has subsequently come about that replicates the RPA's approach.

What is unique about these second-generation schemes is that they are rooted in labour rights by recognising workers' entitlements to the benefits specified in ILO's Employment Injury Benefits Convention No. 121. Compensation is calculated not on a negotiated agreement over what industry stakeholders are willing to pay, but instead based on workers' entitlements under the internationally recognised labour standards of ILO Convention No. 121. Second-generation schemes then rely upon voluntary contributions (from employers, government, and most especially global apparel companies) to fund the scheme in whatever amount is required to meet the entitlements of workers and their dependants.

This report focuses on the RPA and two other examples of 'second generation' compensation schemes: the Tazreen Claims Administration Trust (TCA) and the Ali Enterprises compensation arrangement. Although the fires at Bangladesh's Tazreen Fashions factory and Pakistan's Ali Enterprises pre-date the Rana Plaza collapse, compensation for the survivors was only formulated after the RPA was created. Both the TCA and the Ali Enterprises compensation arrangement have relied upon, refined, and adapted the Rana Plaza template. Chapter 3 will examine and compare these three cases.



“In the absence of a national employment injury insurance system (e.g. Bangladesh), or in countries where the system does not meet international standards (e.g. Pakistan), global apparel companies have been called upon to step into the breach and pay compensation to injured workers and the families of those killed in supplier factories.”

National Garment Workers Federation protest in front of National Press Club in Dhaka, demanding immediate compensation and the trail of the garment factory owners. Rana Plaza and Tazreen Fashions survivors attended this protest (Photo by Zakir HossainChowdhury/NurPhoto).

Credit: NurPhoto.com/Alamy Stock Photo

2 Methodology

This report is based on a systematic review of documents available in the public domain pertaining to three compensation schemes:

- Rana Plaza Arrangement (RPA)
- Tazreen Claims Administration Trust (TCA)
- Ali Enterprises compensation arrangement

The materials that were reviewed and analysed include the compensation schemes' websites, reports, press releases, and meeting minutes, as well as the relevant websites, reports, and press releases of stakeholder groups (e.g., ILO, Clean Clothes Campaign, IndustriALL Global Union, Pakistan Institute of Labour Education and Research, and others). ILO conventions and state laws pertaining to employment injury benefits in Bangladesh and Pakistan have also been reviewed, as have news articles from national and international media outlets on the factory disasters and compensation efforts.

This document analysis has been supplemented by semi-structured telephone interviews and email exchanges with five individuals from civil society and industry involved in the creation and implementation of the compensation schemes. Interview questions sought to understand issues surrounding the practical design and implementation of these schemes, and therefore focused on queries arising from the document analysis. Participants in the interviews were asked to explain different components of the compensation schemes, and were also invited to share their own views on the schemes' achievements and challenges.

A shortcoming of this report is that it does not engage directly with the experiences of affected workers and families who received compensation benefits. However, existing documentation from the three compensation schemes identify some key challenges from the perspective of families, which are discussed in this report. Another limitation of the report is that it does not explore the many criminal and civil lawsuits brought against employers and apparel companies in Bangladesh, Pakistan, and in the courts of other countries. For injured workers and the families of the deceased, the issue of compensation is almost always inseparable from wider issues of justice that are beyond the scope of this report.

This report relies most extensively on the following documents: the ILO's *Bangladesh: Rana Plaza Compensation Scheme: Technical Report on the Scheme Design and Operationalization, and Lessons Learnt and Other Relevant Questions* (2015), the TCA's *Final Report of the Executive Commissioner to TCA Coordination Committee* (2016), and Clean Clothes Campaign and International Labor Rights Forum's *Still Waiting: Six Months After History's Deadliest Apparel Industry Disaster, Workers Continue to Fight for Reparations* (2014).¹⁵



Survivors and families of those killed by the Tazreen fire, registering for Sanchaypatra savings bonds, Rangpur.

Credit: © Tazreen Claims Administration Trust



Survivors and families of those killed by the Tazreen fire, registering for Sanchaypatra savings bonds, Rangpur.

Credit: © Tazreen Claims Administration Trust

3 Comparing Compensation Schemes in the Post-Rana Plaza Era: Case Studies

3.1 RANA PLAZA ARRANGEMENT (RPA)

The most-deadly single disaster in garment manufacturing history, the collapse of the Rana Plaza building caused worldwide outrage and stimulated a wide range of labour reforms in Bangladesh's garment sector. The upper floors of the eight-storey structure housed five garment factories that produced brand-name clothing for at least 29 European and North American companies. Cracks appeared on Rana Plaza's walls on April 23, 2013, and the building was evacuated. Although the offices and retail spaces occupying the lower floors remained closed the next day, the factories resumed work. Workers are reported to have voiced fears of entering the building on April 24, but they were threatened with the loss of up to a month's pay if they did not comply.¹⁶ When an ordinary loss of electrical power that morning triggered four diesel generators at the back of the building, Rana Plaza collapsed. It later became known that despite passing private audits as part of the Business Social Compliance Initiative (BSCI), and an inspection by Bangladesh's Fire Service and Civil Defense only three weeks earlier, the building was constructed out of substandard materials and the top floors were erected illegally.¹⁷ At least 1,134 individuals died and hundreds were injured in the collapse, almost all of whom were garment workers.

Local and international NGOs, government agencies, private companies, and individuals rushed to provide emergency services, humanitarian relief, and financial aid. With no national employment injury insurance system, resources were distributed somewhat arbitrarily, rather than in proportion to workers' specific losses. Factories destroyed in the collapse could not be counted on to make even the very small payments that some workers would have been entitled to under the Bangladesh Labour Act. International stakeholders from civil society, government, and industry saw the importance of creating a single, coordinated approach to compensation.

At the urging of labour rights activists Clean Clothes Campaign (CCC), IndustriALL Global Union, and in response to a specific request from the Bangladesh government, the ILO agreed to coordinate and provide technical assistance for a comprehensive compensation scheme for the workers and their families. This scheme, known as the 'Rana Plaza Arrangement' (RPA), was inaugurated in November 2013 with the signing of a Memorandum of Understanding among stakeholders from the Bangladesh government, national employers' associations, global and national trade unions, and global and local NGOs.¹⁸ Chaired by the ILO, these signatories formed the RPA's governing body, the Rana Plaza Coordination Committee (RPCC). The RPCC's main responsibility was to develop, implement, and monitor a systematic process for delivering compensation and medical care to Rana Plaza's victims, consistent with international standards.¹⁹

In January 2014, the RPCC elected an Executive Commissioner, Dr Mojtaba Kazazi, to set up and run the claims programme. A former Executive Head of the United Nations Compensation Commission (UNCC), Kazazi proposed that the RPA be modelled after the UNCC, with a coordination committee, a claims processing team, and two Commissioners working at the national level. The RPCC elected Justice A. B. M. Khairul Haque, former Chief Justice of Bangladesh, and Madam Sultana Kamal, Executive Director of Ain o Salish Kendra, as Commissioners.

The Rana Plaza Claims Administration (RPCA) was a team of paralegals, IT professionals, and accountants convened to implement the RPA in Bangladesh by receiving and processing claims. The ILO established a Rana Plaza Donors Trust Fund in January 2014 to collect donations and disburse payments. In total, \$30 million was raised and distributed to Rana Plaza's survivors, paid mostly by global brands and retailers. A total of 5,109 claims were paid on behalf of 2,895 injured or deceased workers (including missing workers), with final payments completed in October 2015.²⁰

PRINCIPLES AND BASIS OF THE SCHEME

The RPA was modelled on best practices for employment injury compensation, in line with the ILO's Employment Injury Benefits Convention No. 121. Injured workers and the families of those killed were entitled to compensation for lost wages for the entire period of impairment, or (in the case of deceased workers) for the period of a dependant's eligibility (see 3.5 Table Comparing Three Compensation Schemes). Benefits were calculated as a percentage of the worker's earnings at the time of the incident. The ILO developed actuarial software in the Visual Basic Application (VBA) to make these calculations, which was integrated into a database platform for receiving and processing claims by Technohaven, a Dhaka-based software development company. Injured workers were entitled to medical and allied care, as well as rehabilitation services. Under the RPA, survivors would not be eligible for payments for their pain and suffering, which stand outside the standards of ILO Convention No. 121; beneficiaries were informed that receiving benefits through the RPA did not mean waiving their right to seek damages through the courts.

Some of the labour rights groups in the RPCC perceived there to be an inherent problem with the strict application of ILO Convention No. 121 after a factory disaster, where existing injustices (e.g., workers earning poverty wages) would be replicated in the compensation scheme. They advocated using a 'living wage' as the reference wage for calculating benefits, and/or awarding additional payments for survivors' pain and suffering. However, ILO actuarial staff cautioned against creating a compensation scheme that might set an unsustainable precedent of large payments for workers and families beyond the ILO Convention No. 121 standards. Corporate representatives on the RPCC also did not want to expand payments to include compensation for pain and suffering that is normally applied by a court with a finding of liability. To resolve these differences, the RPCC agreed to compromises that increased benefits while staying within the ILO Convention No. 121 standards: for example, calculating benefits for the Rana Plaza workers using a higher salary rate based on the December 2013 sectoral pay rise.

LUMP SUM PAYMENTS

Beneficiaries were provided with a written Notice of Award (NoA). Lacking the administrative infrastructure in Bangladesh to pay benefits periodically, RPA's beneficiaries were informed that they would receive their awards as lump sum payments. The lump sum was calculated as

the present value of a periodical payment for an injured worker or dependant, including projections for future interest, inflation, and the life expectancy of the individual beneficiary (in cases of permanently disabled workers and lifetime dependants). Although lump sum payments are allowable under the standards of Convention No. 121, they sometimes gave recipients an impression of unfairness that would not have occurred with a periodical payment: for example, an older widow would receive a smaller sum than a younger widow because the remainder of her own projected lifetime is presumed to be shorter.

RAISING FUNDS

The total costs of compensation was calculated to be \$30 million.²¹ The Rana Plaza Donors Trust Fund welcomed contributions from anyone, but the main contributors were expected to be global apparel companies that sourced from Bangladesh, with the largest contributions coming from those who did business with the Rana Plaza factories. Contributors could donate in whatever amounts they chose, anonymously if they wished, and would not have to disclose the amount donated. While some companies, notably Primark, made an early commitment to the Rana Plaza victims, others were slow to contribute and did so in only small amounts.²² As a result, it took more than a year for the fund to reach its target, and this was only achieved after intensive, worldwide campaigning against brands that had sourced from Rana Plaza, such as Benetton and The Children's Place.²³ Governments, including members of the OECD, also put pressure on companies to contribute.²⁴

Perceiving it to be unjust to make families wait for compensation until the fund's target was met, the RPCC approved the payment of compensation in instalments as funds became available, including an advanced payment of BDT 50,000 (\$600) shortly before the first anniversary of the collapse. According to labour rights activists involved in the compensation scheme, payment in instalments led to some confusion and disheartenment on the part of some beneficiaries, who had anticipated a lump sum. Payment by instalments prevented some beneficiaries from devoting the awards to a new business or other investment because it was difficult to be confident of the benefits of doing so when payments arrived in smaller sums with no guarantee if or when the full amount would materialise. Fundraising delays also complicated the work of the RPCC and required amending the claims processing software to implement and record multiple rounds of payments.

BOX 2: THE COMPLEXITIES OF ACCOUNTING FOR EMERGENCY FINANCIAL ASSISTANCE

After a garment factory disaster, it is common for various organisations and individuals to provide *ad hoc* financial aid and other forms of assistance to survivors. Especially in the absence of a national employment injury insurance scheme, state agencies, NGOs, businesses, and philanthropists may come forward to grant short-term and long-term financial relief. In the process of developing a *post facto* compensation scheme that relies upon voluntary contributions, decisions must be made about whether to incorporate these early payments into the calculations of the final compensation amounts, with an eye towards ensuring that all workers receive fair and equitable compensation.

For example, many workers and families affected by the Rana Plaza collapse were provided with financial aid from the Prime Minister's Relief and Welfare Fund (PM Fund). Deducting these previously received payments from claimants' final awards ensured that the contributions from the PM Fund were an acknowledged part of the Rana Plaza Arrangement. Similarly, the Tazreen Claims Administration (TCA) decided to deduct early payments from the PM Fund and the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) from final compensation awards whereas financial assistance and other forms of aid provided by NGOs were not deducted from final awards.²⁵

WORKERS WITHOUT PHYSICAL INJURY

The Rana Plaza Arrangement invited *all* workers in the building at the time of the collapse to make a claim. Workers who reported no physical injury still received an instalment of BDT 50,000 that was paid before the first anniversary of the collapse, as well as nine months' salary that was provided by the Primark apparel company as emergency relief. The scale of the collapse and desire to aid its survivors created a feeling that even those not reporting injury deserved the financial assistance which otherwise would have been provided by unemployment insurance, had it existed in Bangladesh. These workers who were present but not physically injured are included in the final count of 'injured' workers (see 3.5 *Table Comparing Three Compensation Schemes*).

MEDICAL CARE

The Centre for the Rehabilitation of the Paralysed (CRP), based in Savar, provided medical care and rehabilitation services to injured workers at no cost, and undertook medical assessments of the injured workers using the approach adopted by the Rana Plaza Arrangement. The main purpose of the medical assessment was not to give a conclusive diagnosis of the worker's injuries, but instead to assess the impacts of any injury on functionality, particularly as related to the potential of the worker to be re-employed. Injured workers were given a 'disability percentage' that was fed into the calculation of benefits.

ILO Convention No. 121 requires arrangements for long-term medical care for workers injured and disabled in the workplace. In April 2016, the RPCC agreed to form a new trust to provide long-term medical care for Rana Plaza workers. The RPCC authorised a multi-stakeholder sub-committee to oversee the creation of this medical trust, which will be funded with approximately \$1 million from the Rana Plaza Donors Trust Fund. The Tazreen Claims Administration has joined this trust to provide long-term medical care to workers injured in the Tazreen fire, albeit with its own separate funding and reporting mechanisms.²⁶

AUDIT OF THE SCHEME AND PRESERVATION OF DOCUMENTS

The Rana Plaza Arrangement was audited by A. Qasem & Co., independent auditors selected by the ILO. The ILO drafted the terms of reference for the audit, which included verification of the accounts and documents of the RPCA, and confirmation of payments and amounts of a random selection of beneficiaries (workers and dependants). The RPA's documents have been transferred to national archives in Bangladesh.

3.2 TAZREEN CLAIMS ADMINISTRATION TRUST (TCA)

On the evening of November 24, 2012 a fire began on the ground floor of the nine-storey Tazreen Fashions factory in Savar, Bangladesh. As many as 600 workers were in the building working overtime.²⁷ The fire quickly spread to other floors and burned for 17 hours before being successfully extinguished. According to survivors, when the fire alarm sounded managers initially prevented them from leaving their workstations. With locked exits, a lack of fire escapes, and a staircase that led down to the ground floor where the fire originated, many workers were unable to flee. A number of workers died attempting to escape by leaping from windows. At least 112 people lost their lives and more than 200 were injured.²⁸ Some of the bodies recovered from the scene were so badly burned that they required DNA testing for identification. Tazreen was a supplier for many global apparel companies and sourcing agents, including C&A, El Corte Inglés, Enyce, Karl Rieker, KiK, Li & Fung, and Walmart, among others.²⁹

Just as in the aftermath of the Rana Plaza collapse, the Tazreen factory fire led to a variety of initiatives to provide emergency aid and humanitarian relief.³⁰ These included government efforts to collect donations from apparel companies and local employers, short-term income support from the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), and a variety of services for survivors offered by the development organisation Caritas with funding from C&A Foundation and Fung (1906) Foundation. Despite the value of these efforts, without a coordinated approach, the Tazreen workers' right to full and fair compensation would remain unfulfilled. Labour rights groups therefore called upon global apparel companies to participate in a single, coordinated approach to compensation.

Encouraged by the Rana Plaza Arrangement's success in establishing a comprehensive and rights-based compensation agreement, C&A, C&A Foundation, IndustriALL Global Union, and the Clean Clothes Campaign (CCC) sought to develop and implement such a scheme for the survivors of the Tazreen fire. With the support of the ILO, stakeholders signed a Memorandum of Understanding in November 2014, specifying the principles of a compensation agreement.³¹

The Tazreen Claims Administration Trust (TCA) was established in September 2015. The TCA adopted many of the principles and processes of the RPA. Benefitting from knowledge of the RPA's challenges, the TCA was able to move quickly through the process of registering claimants, calculating compensation payments, and disbursing funds. The RPA's Executive Commissioner, Mojtaba Kazazi, agreed to serve in the same role for the TCA, as did the RPA's national-level Commissioners. The TCA required less technical support from the ILO because so many of the elements of the scheme were copied from the RPA. Payments to 590 beneficiaries representing 174 injured workers and the dependants of 112 deceased (including missing) workers were completed by June 2016.³²

ADOPTING AND MODIFYING THE RPA MODEL

The TCA made various modifications to improve upon the RPA's design and to fit the specific circumstances of the Tazreen fire. One modification was to convene not one but two governance bodies:

- A **Coordination Committee**³³ with global representatives from industry and civil society, as well as the Bangladesh Ministry of Labour and Employment (MoLE)
- A **Steering Committee**³⁴ with representatives of Bangladeshi organisations, including trade unions, the employer's association, MoLE, and several NGOs and civil society groups, including two survivors of the fire.

This bifurcated governance model allowed the TCA to be more responsive to the survivors, because the Steering Committee could remain locally engaged with the needs of workers and families, while working closely with a Coordination Committee that organised funding and high-level administration. The Steering Committee included all organisations working directly with the Tazreen survivors. Another intention behind this bifurcated model was to keep the beneficiaries closely informed, by engaging local partners in outreach, data collection, and advising the Coordination Committee on how best to communicate with the beneficiaries.

“Despite the value of emergency aid and humanitarian relief efforts after a garment factory disaster, a coordinated approach is needed to fulfil workers’ right to full and fair compensation.”



Bangladeshi social activists and relatives pay their tribute to the victims of Savar's Rana Plaza building collapse at the graveyard at Jurain in Dhaka, Bangladesh, April 23, 2016

Credit: ZUMA Press, Inc./Alamy Stock Photo

RAISING FUNDS

Although the affected workers and families had to wait more than three years to receive compensation, once the TCA was set up, the completion of the scheme was much quicker than it had been in the Rana Plaza Arrangement. One reason for this was the readiness of some of the companies that had sourced from Tazreen Fashions to contribute significant funding (for details see 3.5 *Table Comparing Three Compensation Schemes*). Unlike with the Rana Plaza Donors Trust Fund, where several companies were publicly acknowledged as contributors without disclosing the fact that they had donated only very small sums, the contributors to the TCA made known the amounts paid:

- C&A Foundation, \$1 million
- Fung (1906) Foundation, \$1 million
- BRAC USA (with Walmart contribution), \$250,000
- KiK, \$150,000
- El Corte Inglés, \$100,000

In addition to these amounts, C&A Foundation has also paid administrative costs separately.³⁵ In contrast to the RPA, these sums were raised, in the words of one labour rights campaigner, 'quickly and with the minimum of public campaigning.' As a result, once the beneficiaries were issued with NoAs, the TCA was better able than the RPA had been to meet the expectations of beneficiaries in a timely manner. Once final calculations were made, and provision for long-term medical care was secured by establishing a medical trust, surplus funds in the TCA Trust were re-distributed among the beneficiaries.³⁶ Any funds remaining at the closure of the TCA were transferred to the medical trust.

SUPPORT FOR FINANCIAL PLANNING

Unlike the RPA, which had to be distributed in instalments, the TCA was distributed in lump sums as intended. Related to this, TCA put a stronger emphasis on supporting beneficiaries with financial planning, including a dedicated outreach campaign to encourage beneficiaries to invest in government savings certificates known as *Sanchayapatra*. Of the 582 TCA beneficiaries, 116 used all or part of their lump sums to purchase *Sanchayapatra*, through which they earn interest monthly.³⁷

MEDICAL CARE

The Centre for the Rehabilitation of the Paralysed (CRP) medically assessed the Tazreen workers using the same procedures and criteria as the RPA. As many as 172 injured workers were assessed as potentially requiring long-term medical care, including physical and psychological treatments. The TCA has joined with the RPA in the creation of a medical trust to provide ongoing medical care to survivors of both factory disasters. Although the RPA and TCA are cooperating in the creation of the medical trust, they will maintain separate funding, reporting, and governance mechanisms for the medical care of their own beneficiaries. From the TCA's \$2.5 million, \$350,000 has been allocated for the long-term medical care of the workers injured in the Tazreen fire.³⁸

AUDIT OF THE SCHEME

As for the Rana Plaza Arrangement, the TCA included an extensive external compliance audit by A. Qasem & Co. of all the funds received from donors and paid to beneficiaries. The audit report is available on the TCA website.

3.3 ALI ENTERPRISES COMPENSATION ARRANGEMENT

In Pakistan's worst industrial disaster, the Ali Enterprises factory in Baldia, Sindh Province caught fire on September 11, 2012 and took the lives of at least 255 workers, injuring 57 more. Eyewitness accounts describe a fire that spread quickly through the four-storey structure while firefighters took more than an hour to reach the scene.³⁹ With no fire safety procedures, barred windows on the lower levels, and no emergency exits, many workers found themselves trapped inside the building, or with no escape route except to risk death or injury by leaping from windows on the upper storeys. Only three weeks earlier, a private social compliance firm, RINA, had declared that Ali Enterprises met the purportedly high standards of factory safety required for the SA8000 certification.⁴⁰ The German retailer KiK was Ali Enterprises' only known buyer, and acknowledged having a large majority share of its production.

In the days and weeks after the incident, injured workers and families of those killed received financial assistance from charitable and government sources. In December 2012, KiK signed an agreement with Pakistan Institute of Labour Education and Research (PILER), a labour rights NGO, to contribute \$1 million of emergency assistance to the affected workers and their families. As part of the agreement, KiK committed to being involved in further negotiations to work out a long-term compensation deal.⁴¹

A Compensation Commission was established at the Sindh High Court (SHC) to verify the victims of the fire and establish the eligibility of injured workers and dependants of deceased workers to claim compensation and other benefits. The official list of deceased workers and injured was 255 dead and 55 injured. As in the Tazreen Fashions fire, DNA testing was required to identify many of the bodies. In April 2013, SHC began the process of distributing the short-term relief funds donated by the factory owners, KiK, and individual philanthropists.

Garment workers in Pakistan, unlike those in Bangladesh, have access to some benefits through a public social security system. In Sindh Province, factory owners are required to register their employees with the Sindh Employees' Social Security Institution (SESSI) and the Employees' Old-Age Benefits Institution (EOBI), and to make monthly payments into these schemes on the workers' behalf.⁴² These state welfare institutions provide benefits to registered workers, including old-age and survivors' pensions. But only 200 out of more than 2,000 individuals working at Ali Enterprises were actually

registered, equating to a small number of the workers and families affected by the fire.⁴³ Even though the EOBI agreed to provide some pensions regardless of registration status, these payments were below international standards of worker compensation, were not calculated based on workers' salaries at the time of the incident, and were not indexed to rise with inflation.

When in early 2014 PILER approached KiK to begin negotiations for a long-term compensation arrangement, KiK refused to pay further compensation, noting that in the years prior to the fire independent audits did not indicate fire safety risks.⁴⁴ PILER, along with several trade unions and labour rights NGOs, launched an international campaign focused on Germany to pressure KiK to engage in compensation negotiations. After many months, KiK agreed to join talks with IndustriALL and CCC, facilitated by the ILO beginning in May 2016. The German government also attended the negotiations.

With the approval of Germany and Pakistan, in the final arrangement announced in September 2016, KiK agreed to contribute an additional \$5.15 million to 'top up' the statutory workers' compensation benefits paid by SESSI, to bring the awards in line with ILO Convention No. 121. Where beneficiaries' statutory entitlements under the Sindh Employees' Social Security Act (SESSA) was greater than the standard of ILO Convention No. 121, the higher standard was upheld. Including SESSI's contributions, the entire compensation agreement was \$6.6 million.

The ILO served in a facilitating and coordinating role for calculating payments to beneficiaries. A multi-stakeholder advisory group was convened, including IndustriALL, Clean Clothes Campaign, KiK, the German government (as observer) and the ILO (as neutral chair). Similar to the Tazreen Claims Administration's 'bifurcated' governance approach, the Ali Enterprises arrangement also convened a local oversight committee comprising the Pakistan government, the national employers' association, national trade unions (including the National Trade Union Federation), PILER, and the survivors' association.

The compensation amounts were calculated not on workers' actual wages, about which there was too little information after the fire, but on a single monthly 'reference wage' of Rs. 25,525 (\$242) used as proxy wage for all affected workers. The reference wage was agreed by stakeholders in the advisory group to reflect generously the wages actually earned, and therefore to be a fair rate with which the ILO could calculate compensation consistent with international standards and indexed to rise with the cost of living. These additional payments

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were due to start at the beginning of 2017, but have been delayed mostly by the complexity of administering the scheme.

WORKING WITH A PUBLIC SOCIAL SECURITY SYSTEM

Whereas the RPA created a new infrastructure for implementing a compensation scheme in Bangladesh where none existed before, the Ali Enterprises compensation arrangement works within an existing social security system in Pakistan. The advantage of this situation is that the Ali Enterprises arrangement represents an opportunity to draw attention to and strengthen existing infrastructure, rather than creating a parallel system. But working with an existing social security apparatus poses significant challenges as well, because administering the compensation arrangement requires working within existing laws and processes not designed to accommodate additional benefits provided from outside the system. Oversight of the arrangement emphasised international best practices, and funds for the Ali Enterprises survivors are to be held in a separate trust to be disbursed to those recipients only.

Another challenge of reconciling payments based on the ILO Convention No. 121 standard and SESSI's provision for survivor benefits after a factory disaster is that ILO Convention No. 121 recognises surviving spouses and children as 'standard beneficiaries,' but does not recognise parents as 'standard beneficiaries.' In its effort to 'top up' SESSI's benefits to dependants of deceased workers based on ILO Convention No 121 standards, parents of deceased workers have therefore received less than widows or widowers with children. For some parents of deceased workers who were not married, this disparity in compensation payments feels unjust.

A DEMAND FOR LUMP SUM PAYMENTS

It is considered international best practices to provide injured workers or dependants of deceased workers periodical payments rather than a lump sum. Periodical payments, in the form of a pension, are intended to be an ongoing income replacement. By working with SESSI, the Ali Enterprise compensation arrangement has promised to deliver periodical payments to the affected workers and families. However, many members of the survivors' group, Ali Enterprises Factory Fire Affectees Association (AEFFAA), have expressed discontent with the prospect of receiving periodical payments and have asked to receive a lump sum instead. With many more deaths than injuries in Ali Enterprises, the largest group of beneficiaries are dependants of deceased workers.⁴⁵ Many of the beneficiaries already received lump sums as part of the compensation distributed by SHC, and see no reason why the remaining balance of compensation cannot be paid in the same form, which would enable them to make large one-time purchases or investments should they wish.⁴⁶ Survivors' calls for lump sum payments have been unsuccessful because periodical payments are standard in both SESSA and ILO Convention No. 121.

3.4 GUIDING PRINCIPLES OF THE THREE COMPENSATION SCHEMES

Comparing the design and implementation of the Rana Plaza Arrangement, the Tazreen Claims Administration Trust, and the Ali Enterprises compensation arrangement, the following guiding principles cut across these compensation schemes:

A SINGLE APPROACH

A single approach is used to identify survivors' losses and to calculate benefits using the same formula or method. Donor contributions are consolidated so that they are distributed to beneficiaries from a single source. Beneficiaries will receive different amounts based on the application of the compensation formula to each specific case. Delivering a single approach requires effective systems for managing data, calculating payments, distributing funds, and auditing the administration of the scheme. With a single approach the outcomes of the compensation process should be replicable.

RIGHTS-BASED BENEFITS

The benefits that are provided to workers or surviving family members have been calculated based on international standards, namely ILO's Employment Injury Benefits Convention No. 121. Compensation is therefore paid as an internationally recognised right, not as a form of charity. ILO Convention No. 121 recognises rights to compensation for lost wages and medical expenses, but not for victims' 'pain and suffering.' The beneficiaries receiving this compensation retain the right to seek damages through a civil lawsuit.

RESPECTING NATIONAL SOVEREIGNTY

The compensation schemes give preference to national laws and institutions as long as they do not conflict with the international standards of ILO Convention No. 121. In Bangladesh, the compensation efforts do not contravene Bangladesh labour laws; rules of apportionment respect local definitions of 'dependants' in law and custom. In Pakistan, the Ali Enterprises compensation arrangement works with the existing social security administration system.

MULTI-STAKEHOLDER COOPERATION

Stakeholders from industry, government, and civil society (including trade unions, labour rights groups, and representatives of the survivors) cooperate to ensure that survivors receive fair compensation. International standards are adapted to national circumstances through compromise and consensus building across stakeholder groups, both international and national. This cooperation includes jointly developing and implementing all parameters of the process.

VOLUNTARY DONATIONS

With no binding legal mechanism to compel financial contributions, the funding of these compensation schemes relies upon voluntary donations. Although governments, factory owners (either individually or through their employers' association), and NGOs donated to these compensation schemes, most of the funding was expected to be provided by global apparel companies, without any admission of liability for the factory disaster. The many instances where apparel companies refused to contribute or only did so after prolonged campaigning by labour rights groups violated this principle.

ENGAGING WITH THE SURVIVORS

Recognising the vulnerability of injured workers and dependants of deceased workers, the compensation schemes attempt to ensure that survivors are able to submit claims effectively. Achieving this requires pre-award counselling, easy-to-access facilities for submitting claims and undertaking medical assessments, and sensitive mechanisms for engagement and communication. Recipients of large lump sum payments are considered to be in particular need of assistance with financial planning.

TRANSPARENCY

The compensation schemes aim not only to be systematic, fair, and predictable, but also to communicate these qualities to beneficiaries and the general public. Activities to promote transparency can include having survivors serve on a governance or advisory body, maintaining an up-to-date website for public communication, and subjecting the compensation scheme to a compliance audit. The quest for transparency must be balanced against the imperative not to disclose information about payments in ways that would draw unwanted attention to individual claimants.

A group of people are working in an office setting. In the foreground, a man in a blue and white striped shirt is writing on a document. To his right, a woman in a red and white striped headscarf is looking at a laptop. In the background, other people are seated at desks, some looking at laptops. The office has large windows with a view of greenery outside. The text "Compensation should be paid as an internationally recognised right, not as a form of charity." is overlaid on the image.

“Compensation should be paid as an internationally recognised right, not as a form of charity.”

Claims Processing at the Tazreen Claims Administration Dhaka office

Credit: © Tazreen Claims Administration Trust

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3.5 TABLE COMPARING THREE
COMPENSATION SCHEMES

	RANA PLAZA	TAZREEN FASHIONS	ALI ENTERPRISES
OVERALL FACTS ABOUT COMPENSATION SCHEMES			
Type of incident, country and date	Building collapse, Bangladesh, April 2013	Factory fire, Bangladesh, November 2012	Factory fire, Pakistan, September 2012
Number of deaths and injuries ⁴⁷	At least 1,134 deaths and 1,984 injured workers	At least 112 deaths and 285 injured workers	At least 255 deaths and 57 injured workers
Amount paid in compensation	\$30 million	\$2.5 million	\$6.6 million
Date of final compensation payments	October 2015	June 2016	Still pending
Other benefits delivered	<ul style="list-style-type: none"> • Medical care, including allied care and rehabilitation services • Pre-award counselling • Financial counselling 	<ul style="list-style-type: none"> • Medical care, including allied care and rehabilitation services • Pre-award counselling • Financial counselling • Assistance with purchasing government savings certificates (Sanchayapatra) 	<ul style="list-style-type: none"> • Medical care, including allied care and rehabilitation services • Additional benefits relating to financial literacy and capacity building may be provided when payments begin
Contributors to compensation payments	<ul style="list-style-type: none"> • Global apparel companies • Bangladesh Prime Minister's Fund • Individual and charitable donations 	<ul style="list-style-type: none"> • Global apparel companies • Corporate foundations • Bangladesh Prime Minister's Fund and BGMEA 	<ul style="list-style-type: none"> • One global apparel company • Sindh Employees' Social Security Institution (SESSI)
Brands involved	<ul style="list-style-type: none"> • Primark, Bonmarché, El Corte Inglés, and Loblaw served on Coordination Committee • Those brands donated funds along with 26 other companies⁴⁸ 	<ul style="list-style-type: none"> • C&A • El Corte Inglés • Kik • Li & Fung • Walmart (through a contribution to the non-profit BRAC USA, which was donated to the TCA) 	<ul style="list-style-type: none"> • Kik
Principles and basis of compensation scheme	<ul style="list-style-type: none"> • Rights-based, ILO Convention No. 121 • Funds provided voluntarily, mostly by apparel companies 	<ul style="list-style-type: none"> • Rights-based, ILO Convention No. 121 • Funds provided voluntarily, mostly by apparel companies 	<ul style="list-style-type: none"> • Rights-based, ILO Convention No.121 • Funds provided voluntarily from apparel company to 'top up' payments made under the state system that do not meet international standards
Governance of the scheme	<p>Multi-stakeholder coordination committee comprised of:</p> <ul style="list-style-type: none"> • Bangladesh government • Global apparel companies • Trade unions (national and global) • Civil society (national and global labour rights NGOs) • Bangladeshi employers' associations • ILO (as neutral chair) <p>Executive Commissioner</p> <p>Two national-level Commissioners</p>	<p>Multi-stakeholder coordination committee comprised of:</p> <ul style="list-style-type: none"> • Executive Commissioner and two members of TCA staff • Global apparel company • Global trade union • Global labour rights NGO • Bangladesh government (MoLE) <p>Multi-stakeholder steering committee comprised of:</p> <ul style="list-style-type: none"> • Bangladeshi NGOs and other civil society groups working with survivors • Bangladeshi trade unions • Bangladeshi employers' association • MoLE • Survivors of Tazreen fire <p>Two national-level Commissioners</p>	<p>Multi-stakeholder advisory group comprised of:</p> <ul style="list-style-type: none"> • Global trade union • Global labour rights NGO • Global apparel company • German government (as observer) • ILO (as neutral chair) <p>Local oversight committee comprised of:</p> <ul style="list-style-type: none"> • Pakistan government • National employers' association • National trade unions • National NGO • Survivors' association

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	RANA PLAZA	TAZREEN FASHIONS	ALI ENTERPRISES
IMPLEMENTATION OF COMPENSATION SCHEMES			
Existing compensation system at time of incident	<ul style="list-style-type: none"> In cases of death and some permanent disabilities, lump sum compensation could be claimed from employers under the Bangladesh Labour Act (2006), in amounts well below international standards Workers could file a civil suit for damages against employers 	<ul style="list-style-type: none"> In cases of death and some permanent disabilities, lump sum compensation could be claimed from employers under the Bangladesh Labour Act (2006), in amounts well below international standards Workers could file a civil suit for damages against employers 	<ul style="list-style-type: none"> Public social security system in Sindh Province compensated for loss of wages and provides medical care, if workers have been registered Statutory compensation amounts were well below international standards and were not indexed to rise with inflation Workers could file a civil suit for damages against employers
Eligibility	<ul style="list-style-type: none"> All Rana Plaza workers and the dependants of those killed were eligible DNA testing of bodies to establish identity Various forms of evidence used to confirm employment status Percentage of disability was assessed by Centre for the Rehabilitation of the Paralysed (CRP), using internationally recognised disability rating scales (for injured workers) Dependants of deceased workers supplied evidence (e.g., birth certificates) to confirm relationship with victim; children were eligible up to age 25 	<ul style="list-style-type: none"> All injured Tazreen workers and the dependants of those killed were eligible DNA testing of bodies to establish identity, sometimes unsuccessfully Various forms of evidence used to confirm employment status Percentage of disability was assessed by CRP using internationally recognised disability rating scales (for injured workers) Dependants of deceased workers supplied evidence (e.g., birth certificates) to confirm relationship with victim; children were eligible up to age 25 	<ul style="list-style-type: none"> All injured Ali Enterprise workers and the dependants of those killed were eligible DNA testing of bodies to establish identity Sindh High Court (SHC) Compensation Commission validated eligibility of claimants; children were eligible up to age 21 Medical assessments of injured workers by certified medical practitioner authorised by state (SESSI), including a rating of minor, partial, or total disablement
Method of calculating benefits	<p>Calculation variables:</p> <ul style="list-style-type: none"> Worker's date of birth Worker's salary on the date of the incident⁴⁹ Percentage of disability (for injured workers) Eligible dependants, including ages and relationship to the worker (for deceased workers) <p>Calculation method (for injured workers):</p> <ul style="list-style-type: none"> Workers receive a percentage of their salary throughout the period of incapacity The percentage of salary is determined through medical assessment of functional loss (physical and psychological), giving a disability percentage <p>Calculation method (for dependants of deceased workers):</p> <ul style="list-style-type: none"> If one dependant, 50% of worker's monthly salary If two dependants, 55% of worker's monthly salary If three or more dependants, 60% of worker's monthly salary <p>Other elements of calculation:</p> <ul style="list-style-type: none"> Floor of BDT 1,050,000 (\$12,500) for families of deceased workers Ceiling of BDT 35,000 (\$420) on the monthly wage base used to calculate compensation amounts Claimants paid a lump sum, equivalent to the present value of periodic payments (including calculations for projected interest and inflation) 	<p>Calculation variables:</p> <ul style="list-style-type: none"> Worker's date of birth Worker's salary on the date of the incident⁵⁰ Percentage of disability (for injured workers) Eligible dependants, including ages and relationship to the worker (for deceased workers) <p>Calculation method (for injured workers):</p> <ul style="list-style-type: none"> Workers receive a percentage of their salary throughout the period of incapacity The percentage of salary is determined through medical assessment of functional loss (physical and psychological), giving a disability percentage <p>Calculation method (for dependants of deceased workers):</p> <ul style="list-style-type: none"> If one dependant, 50% of worker's monthly salary If two dependants, 55% of worker's monthly salary If three or more dependants, 60% of worker's monthly salary <p>Other elements of calculation:</p> <ul style="list-style-type: none"> Floor of BDT 1,050,000 (\$12,500) for families of deceased workers Ceiling of BDT 35,000 (\$420) on the monthly wage base used to calculate compensation amounts Claimants paid a lump sum, equivalent to the present value of periodic payments (including calculations for projected interest and inflation) 	<p>Calculation variables:</p> <ul style="list-style-type: none"> Worker's date of birth The same monthly 'reference wage' of Rs. 25,525 (\$242) was used for all workers instead of actual salaries Disablement rating (for injured workers) Eligible dependants, including ages and relationship to the worker (for deceased workers) <p>Calculation method:</p> <ul style="list-style-type: none"> Benefits were determined in line with the minimum standards of ILO Convention No. 121 for injury or death at work, and entitlements under SESSA, whichever was greater Contributions under the Ali Enterprises arrangement are intended to 'top up' the state benefits to this higher amount <p>Other elements of calculation:</p> <ul style="list-style-type: none"> Workers to receive periodical payments that are indexed to rise with inflation Because a single reference wage was used for all workers, the compensation scheme has a <i>de facto</i> floor and ceiling on compensation payments

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	RANA PLAZA	TAZREEN FASHIONS	ALI ENTERPRISES
IMPLEMENTATION OF COMPENSATION SCHEMES (CONTINUED)			
Disbursement strategy	<ul style="list-style-type: none"> Workers and dependants of deceased workers were invited to make a claim at the office of the RPCA in Savar⁵¹ Advanced payment of BDT 50,000 was made using bKash mobile banking system Each claimant opened an account with Dutch Bangla bank during registration process Claimants issued with Notice of Award (NoA) specifying the amount of the benefit award, minus any pre-payments already received Awards were distributed in instalments as funds became available 	<ul style="list-style-type: none"> Workers and dependants of deceased workers were invited to make a claim at the CRP or TCA office Each claimant opened an account with Dutch Bangla bank during registration process Claimants issued with Notice of Award (NoA) specifying the amount of the benefit award, minus any pre-payments already received Awards distributed in lump sum payments 	<ul style="list-style-type: none"> Workers and dependants of deceased workers were registered with Sindh High Court (SHC) Compensation Commission Ali Enterprise Arrangement payments will be made via the SESSI public social security administration system
Rules for apportioning benefits among dependants of deceased workers	<ul style="list-style-type: none"> ILO Convention No. 121 recognises spouses and children as dependants The RPA respects Bangladesh law and custom in recognising additional dependants, including parents, siblings, and grandparents, among others Each dependant made an individual compensation claim, and each successful claim received a fixed percentage of the total cash benefit To apportion the cash benefit, children had priority over other dependants, followed by spouses, parents, and other dependants (who received the smallest share) 	<ul style="list-style-type: none"> ILO Convention No. 121 recognises spouses and children as dependants The TCA respects Bangladesh law and custom in recognising additional dependants, including parents, siblings, and grandparents, among others Each dependant made an individual compensation claim, and each successful claim received a fixed percentage of the total cash benefit To apportion the cash benefit, children had priority over other dependants, followed by spouses, parents, and other dependants (who received the smallest share) 	<ul style="list-style-type: none"> ILO Convention No. 121 recognises spouses and children as dependants Sindh Employees' Social Security Act (SESSA) gives priority to spouses, who receive the largest share, followed by children; a portion of the pension is payable to parents if there is no spouse or children
Transparency and public communications	<ul style="list-style-type: none"> Rana Plaza Arrangement website Website contains information on the design and implementation of the scheme, but has not been updated to report final payments and outcome Website explains compensation calculation formula and disbursement strategy, with plain language FAQs in English and Bangla Website lists donors to the Rana Plaza Donors Trust Fund, but not always the amounts donated VBA tool for calculating compensation has been used and adapted by other schemes Independent audit was conducted, but report has not been made publicly available 	<ul style="list-style-type: none"> Tazreen Claims Administration website Website contains comprehensive and up-to-date information on the scheme, including final documents Website provides detailed description of the claims process Website lists donors to the TCA Trust, and the amounts donated Independent audit was conducted, and report is available on TCA website 	<ul style="list-style-type: none"> No dedicated website for compensation arrangement Communication with beneficiaries via local stakeholder groups and state agencies
Ongoing medical care	<ul style="list-style-type: none"> Locally-managed trust has been established in Bangladesh to provide ongoing care for RPA and TCA beneficiaries 	<ul style="list-style-type: none"> Locally-managed trust has been established in Bangladesh to provide ongoing care for RPA and TCA beneficiaries 	<ul style="list-style-type: none"> Ongoing medical care for injured workers provided by medical facilities and practitioners authorised by SESSI

4 Conclusions and Recommendations

The three case studies make clear that it is possible to implement a *post facto* multi-stakeholder compensation scheme in line with the rights-based standards of ILO Convention No. 121, but that doing so presents a number of challenges. The following conclusions sum up the lessons learned from these compensation efforts, and offer recommendations with different roles for stakeholders from industry, government, and civil society.

Although ILO's Convention No. 121 provides an internationally recognised standard for delivering compensation to workers and families harmed by garment factory disasters, the Convention was not intended to be applied in such an *ad hoc* and standalone way. There are many difficulties inherent to the design and implementation of a *post facto* compensation scheme in accordance with ILO Convention No. 121 that are not easy to overcome. For these reasons, the conclusions and recommendations are divided into two parts: first to explain and emphasise the need for comprehensive national employment insurance schemes, and second to highlight the lessons learned from providing compensation to workers in the absence of such insurance.

RECOGNISING THE NEED FOR NATIONAL EMPLOYMENT INJURY INSURANCE SCHEMES

1 While *post facto* compensation schemes have been used to provide the survivors of workplace disasters with compensation that meets the standards of international best practices and ILO Convention No.121, they cannot be a replacement for national employment injury insurance schemes, which benefit all workers and not just those harmed in high-profile disasters.

RECOMMENDATION 1.1

Governments of garment-producing countries should develop sustainable, comprehensive, and rights-based national employment injury insurance schemes. Technical assistance from the ILO can ensure that these schemes meet the standards of ILO Convention No. 121.

RECOMMENDATION 1.2

Garment industry employers' associations and global apparel brands must recognise and accept that meeting international standards of worker compensation is likely to raise production costs. Most national employment

injury insurance schemes require employers to contribute on behalf of their workers. Such systems also provide important legal and financial protections for employers.

RECOMMENDATION 1.3

Global apparel companies should advance the call for national employment injury insurance schemes by lobbying the governments of countries from which they source.

RECOMMENDATION 1.4

Labour rights groups should continue to campaign for the development of national employment injury insurance schemes in garment producing countries.

RECOMMENDATION 1.5

Global apparel companies should insist that in the absence of a national system, their contracts with individual supplier factories specify that private injury insurance be purchased to protect workers.

2 *Post facto* compensation schemes that involve multiple stakeholders represent an opportunity to build capacity for public and/or national-level systems. Participation in *post facto* compensation schemes can build familiarity among global stakeholders with the principles and best practices of employment injury benefits, which can help raise expectations that these become more widely practiced. In Bangladesh, the RPA and TCA are working prototypes that can be used to help develop a national system. Local staff in Bangladesh have gained knowledge and experience, and the records of those two schemes have been transferred to the national archives. Likewise, the Ali Enterprises arrangement in Pakistan has strengthened compensation practices within the Sindh Employees' Social Security Institution (SESSI).

RECOMMENDATION 2.1

Governments of garment-producing countries should make use of the groundwork and experiences of *post facto* compensation schemes to develop national employment injury insurance systems.

- 3 The success of the three *post facto* compensation schemes described in this report relied in large part on the coordinating and facilitating role performed by the ILO. The ILO's tripartite approach, which gives 'equal voice' to workers, employers, and governments, meant that the institution was uniquely equipped to play a facilitating, convening, and/or advisory role in the creation of these multi-stakeholder compensation schemes. However, the ILO's preferred activity is to work with member countries to establish permanent, national employment injury insurance systems which would obviate the need for *post facto* compensation.

RECOMMENDATION 3.1

Industry stakeholders and the governments of garment-producing countries should not assume that the ILO will play a role in coordinating *post facto* compensation arrangements in response to future factory disasters.

RESPONDING TO FACTORY DISASTERS WHEN THERE IS NO EMPLOYMENT INJURY INSURANCE SCHEME THAT MEETS STANDARDS OF ILO CONVENTION NO. 121

- 4 In the regrettable circumstance that a disaster occurs in a supplier factory where there is no provision of workers' compensation for death or injury at work that meets the standards of ILO Convention No. 121, stakeholders from industry, government, and civil society can honour workers' rights to compensation by actively collaborating to create and implement a single, rights-based, *post facto* compensation scheme, but not without challenges.

RECOMMENDATION 4.1

When a factory disaster takes place in a context where there is no provision of workers' compensation for death or injury at work that meets the standard of ILO Convention No. 121, apparel companies, government, local employers, and labour rights groups must actively collaborate to create a compensation arrangement that meets international labour rights standards.

- 5 In large-scale disasters causing deaths or permanent injuries, substantial funds have been required to meet workers' rights to compensation in accordance with ILO Convention No. 121. Although funding for previous *post facto* compensation agreements has come from various sources including local employers and governments, all successful *post facto* compensation schemes have called upon global apparel companies to make the largest financial contribution.

Workers' rights to compensation have been seriously delayed and undermined by companies refusing to engage in compensation efforts in a timely fashion.

RECOMMENDATION 5.1

When a disaster in a supplier factory causes injury or death, apparel companies must support compensation efforts regardless of whether the supplier was undertaking work directly authorised or not. Support can mean participating in high-level negotiation and coordination activities, but at a minimum requires financial commitment to help meet workers' right to compensation in accordance with international standards of ILO Convention No. 121.

- 6 A successful *post facto* compensation scheme requires cooperation among many stakeholders, including the government of the country in which the incident has taken place, local actors (employers, workers and survivors' groups, and labour rights groups), and international actors (global apparel companies and labour rights groups). Stakeholders bring with them different assumptions about what the compensation scheme should try to achieve, and those differences are not always easy to reconcile. Moreover, even with a 'single approach' to calculating and distributing compensation, the application of a compensation formula to the specifics of each case can create confusion and a sense of unfairness when beneficiaries receive different amounts. Successful *post facto* compensation arrangements have formed multi-stakeholder governance bodies to build consensus, implement the compensation agreement, and to monitor and review the process. Pre-award counselling, working with local partners, and having survivors serve on a steering committee or advisory group have all been used to improve communication with beneficiaries, and provide opportunities for stakeholders to understand the views of workers and their families.

RECOMMENDATION 6.1

A multi-stakeholder governance body should be developed to maintain stakeholder commitment and engagement, and should include local partners.

RECOMMENDATION 6.2

Compensation schemes must engage effectively with beneficiaries by setting up strong and responsive mechanisms for communication, and should include workers and/or representatives of survivors' groups in the governance of the scheme.

7 ILO Convention No. 121 is not easily applied to *post facto* compensation schemes. The benefits outlined in ILO Convention No. 121 are limited to payment of medical expenses and income replacement for workers injured or killed at work, on the assumption that under ordinary circumstances, these rights would be recognised as part of a broader package of social security benefits. Under ILO Convention No. 121, injured workers and surviving dependants are not automatically entitled to payments for their pain and suffering. Depending on national laws, survivors of factory disasters may pursue such payments (i.e., from employers or brands) through a separate lawsuit. The *post facto* compensation schemes described in this report do not ask beneficiaries to waive the right to pursue payment for pain and suffering as a condition of receiving the compensation.

RECOMMENDATION 7.1

Given that the standards of ILO Convention No. 121 entitle beneficiaries only to lost wages and costs of medical care, beneficiaries of *post facto* compensation schemes based on those standards should not be required to waive their right to pursue further payments for their pain and suffering through litigation.

8 In response to each of these disasters, labour rights groups expressed concern about the strict application of ILO Convention No. 121, where existing injustices (e.g., workers earning poverty wages) would be replicated in the compensation scheme. They advocated using a 'living wage' as the reference wage for calculating benefits, and/or awarding additional payments for survivors' pain and suffering. At the same time, ILO staff have cautioned against creating an unsustainable precedent of large payments for workers and families beyond the ILO Convention No. 121 standards. In response to both sets of concerns, the coordination committees of the RPA and the TCA calculated compensation using retrospectively upgraded salary rates based on Bangladesh's December 2013 increase in the garment sector minimum wage, and created a minimum 'floor' of compensation payments. In an effort to compensate workers based on a fair wage (though not 'living wage') for all, the Ali Enterprises arrangement used the same monthly 'reference wage' to calculate all workers' benefits.

RECOMMENDATION 8.1

Although ILO Convention No. 121 recognises only limited rights to income replacement, medical care and rehabilitation services, stakeholders developing a *post facto* scheme may decide to calculate benefits more generously – for example by agreeing to a minimum 'floor' for cash awards – as long as calculations are undertaken systematically and transparently. Stakeholders who do this should be mindful of avoiding precedents that might undermine the principle of workers' compensation as employment injury insurance.

9 A contradiction at the heart of each *post facto*, multi-stakeholder compensation scheme is that benefits are calculated based on workers' internationally recognised rights to compensation, but the funding to uphold those rights comes from voluntary donations. The largest portion of these donations came from global apparel companies. Experience has shown that despite some exceptions, apparel companies are not often quick to contribute in sufficient amounts. This can create harmful delays in payments to workers or their families. In cases like the Rana Plaza Arrangement, the complete funding was not raised without sustained and intensive campaigning by labour rights activists around the world to 'name and shame' corporations that had not contributed. Government leaders also played a role in pushing companies to contribute, both publicly and in private.

RECOMMENDATION 9.1

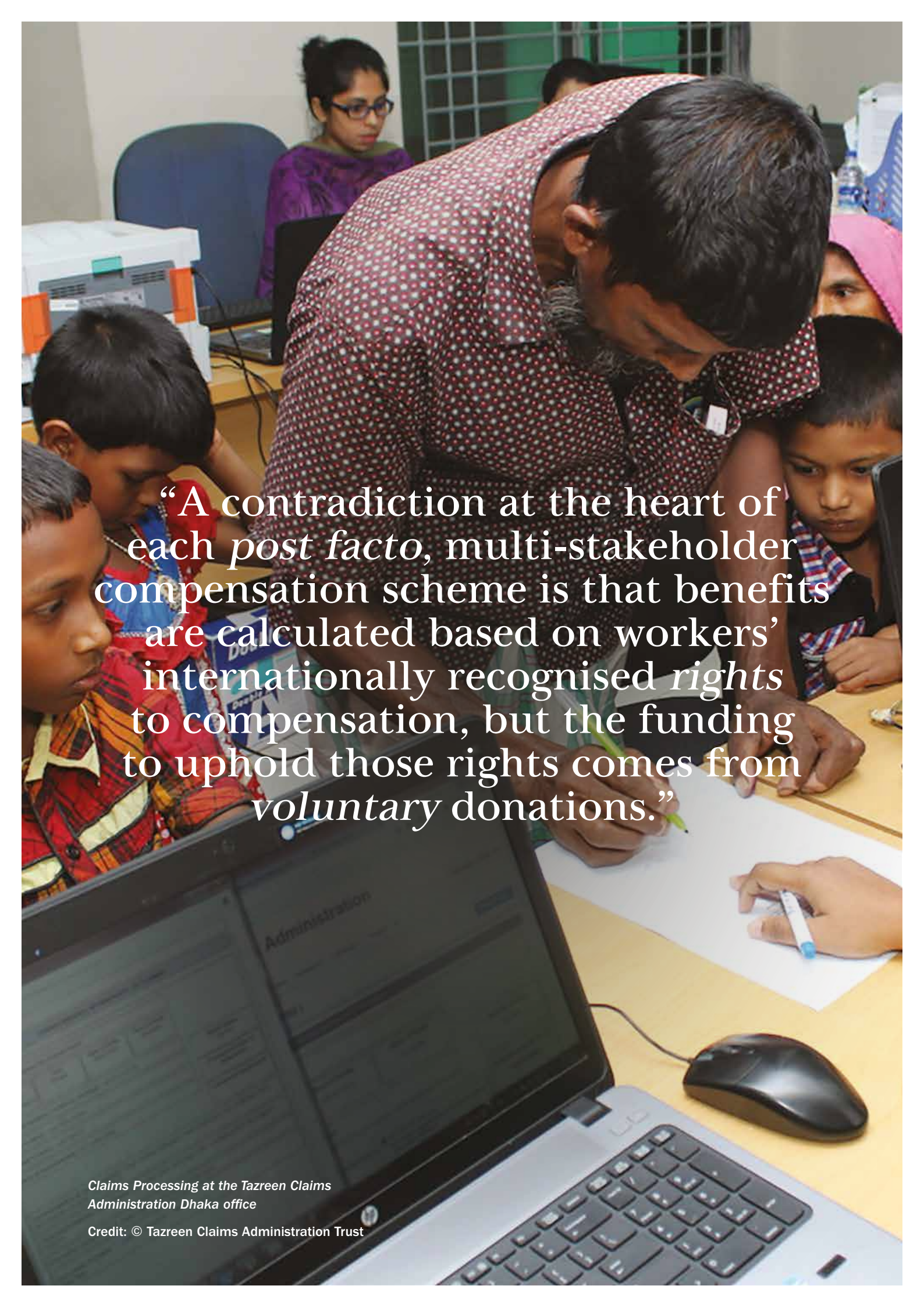
Apparel companies should make a timely financial commitment to help meet workers' entitlements to compensation in accordance with international standards of ILO Convention No. 121 (see Recommendation 4.1).

RECOMMENDATION 9.2

Labour rights groups should coordinate international campaigns to press companies to contribute if they do not voluntarily donate sufficient funds to meet the compensation standards of ILO Convention No. 121.

RECOMMENDATION 9.3

Government leaders in the countries where apparel companies are headquartered should call on those companies to contribute to compensation efforts.



“A contradiction at the heart of each *post facto*, multi-stakeholder compensation scheme is that benefits are calculated based on workers’ internationally recognised *rights* to compensation, but the funding to uphold those rights comes from *voluntary* donations.”

NOTES

- ¹ Earlier compensation agreements, including the Spectrum Relief Fund, which provided financial assistance to victims of the 2005 collapse of the Spectrum factory in Bangladesh, were designed and implemented using different principles. See Chapter 1 of this report and Miller, D., *Last Nightshift in Savar: The Story of the Spectrum Sweater Factory Collapse*, Alnwick, 2012.
- ² Maher, S., 'Hazardous Workplaces: Making the Bangladesh Garment Industry Safe,' Clean Clothes Campaign Policy Briefing, November 2012.
- ³ For an analysis of the inadequacies of private regulation of labour standards, see: Locke, R.M., *The Promise and Limits of Private Power: Promoting Labor Standards in the Global Economy*, Cambridge University Press, 2013; LeBaron, G., and J. Lister, *Ethical Audits and the Supply Chains of Global Corporations*, University of Sheffield, SPERI Global Political Economy Brief No. 1, 2016.
- ⁴ See Reinecke, J., and J. Donaghey, 'After Rana Plaza: Building Coalitional Power for Labour Rights between Unions and Social Movement Organisations,' *Organization* 2015, 22(5): 720-740; De Neve, G., and R. Prentice, 'Introduction: Rethinking Garment Workers' Health and Safety' in *Unmaking the Global Sweatshop: Health and Safety of the World's Garment Workers*, edited by R. Prentice and G. De Neve, University of Pennsylvania Press, 2017, pp.1-25; Siddiqi, D. M., 'Starving for Justice: Bangladeshi Garment Workers in a "Post-Rana Plaza" World,' *International Labor and Working-Class History* 2015, 87: 165-173.
- ⁵ The Office of the United Nations High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights*, United Nations, 2011.
- ⁶ Assuming a spouse and two children, an injured worker would be entitled to compensation amounting to 60% of wages at the time of the accident, for the period of impairment. A widow or widower with two children would be entitled to 50% of the deceased worker's wages for their entire period of eligibility. See ILO's Employment Injury Benefits Convention No. 121 (1964).
- ⁷ International Labour Organization (ILO), *World Social Protection Report 2014/15: Building Economic Recovery, Inclusive Development and Social Justice*, International Labour Office, 2014, pp.46-53.
- ⁸ For more information about the national employment injury insurance scheme, including discussion of the potential need for a temporary 'bridging solution' while it is being developed, see ILO, 'Improving Working Conditions in the Ready Made Garment Industry: Progress and Achievements,' ILO website, September 2016, http://www.ilo.org/dhaka/Whatwedo/Projects/WCMS_240343/lang-en/index.htm; and CCC, 'Brands Need to Step up Compensation after New Factory Fire in Bangladesh,' press release, September 24, 2017, <https://cleanclothes.org/news/2017/09/24/brands-need-to-step-up-on-compensation-after-new-factory-fire-in-bangladesh>.
- ⁹ See Miller, D., *Last Nightshift in Savar: The Story of the Spectrum Sweater Factory Collapse*, Alnwick, 2012, p.52; International Labour Organization (ILO), 'Bangladesh: Technical Note: Comparison Between Employment Injury Provisions in the Labour Act and Standard Provisions of an Employment Injury Insurance Scheme,' International Labour Office, 2015.
- ¹⁰ International Labour Organization (ILO), *World Social Protection Report 2014/15: Building Economic Recovery, Inclusive Development and Social Justice*, International Labour Office, 2014, pp.46-53.
- ¹¹ For an analysis of employment injury compensation arrangements in various Asian countries, see Thowfeek, R., I. Siriwardena, J. Jayanthan, S. Saleem, R. P. Rannan-Eliya, *In-depth Assessment of Employment Injury Compensation Arrangements in Sri Lanka*, Institute for Health Policy, 2014; see also International Labour Organization (ILO), 'Bangladesh: Technical Note: Comparison Between Employment Injury Provisions in the Labour Act and Standard Provisions of an Employment Injury Insurance Scheme,' International Labour Office, 2015.
- ¹² ITGLWF has since merged into IndustriALL Global Union.
- ¹³ For the full story of the Spectrum Relief Fund, see Miller, D., *Last Nightshift in Savar: The Story of the Spectrum Sweater Factory Collapse*, Alnwick, 2012.
- ¹⁴ A compensation agreement for the 11 workers who were injured and families of 29 workers who died in a 2010 fire at the Hameem Group's That's It Sportswear in Bangladesh built upon the Spectrum model and developed a formula for dividing responsibility for contributions among global apparel companies (45%), factory owner (28%), the national employers' association (18%), and the government (9%). See Maher,

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S., 'Hazardous Workplaces: Making the Bangladesh Garment Industry Safe,' Clean Clothes Campaign Policy Briefing, November 2012, p.41.

- ¹⁵ International Labour Organization (ILO), *Bangladesh: Rana Plaza Compensation Scheme: Technical Report on the Scheme Design and Operationalization, and Lessons Learnt and Other Relevant Questions*, 2015; Kazazi, M., *Final Report of the Executive Commissioner to the TCA Coordination Committee*, 2016; Clean Clothes Campaign and International Labor Rights Forum, *Still Waiting: Six Months After History's Deadliest Apparel Industry Disaster, Workers Continue to Fight for Compensation*, 2013. Background information on pre-Rana Plaza compensation schemes has been drawn from Maher, S., 'Hazardous Workplaces: Making the Bangladesh Garment Industry Safe,' Clean Clothes Campaign Policy Briefing, November 2012; Miller, D., *Last Nightshift in Savar: The Story of the Spectrum Sweater Factory Collapse*, Alnwick, 2012.
- ¹⁶ Facts about the Rana Plaza collapse are drawn from Motlagh, J., 'The Ghosts of Rana Plaza,' *Virginia Quarterly Review* 2014, 90(2): 44-89.
- ¹⁷ Clean Clothes Campaign (CCC), 'BSCI 10th Anniversary Shame over Rana Plaza,' June 25, 2013, <https://cleanclothes.org/news/2013/06/25/bsci-10th-anniversary-shame-over-rana-plaza>.
- ¹⁸ Signatories of the MoU were Bangladesh's Ministry of Labour and Employment (MoLE), Bangladesh Garment Manufacturers and Exporters Association (BGMEA), Bangladesh Employers Federation (BEF), IndustriALL Bangladesh Council (IBC), National Coordination Committee for Workers' Education (NCCWE), Bangladesh Institute of Labour Studies (BILS), IndustriALL Global Union, Clean Clothes Campaign (CCC), and the global brands Bonmarché, El Corte Inglés, and Loblaw; see 'Understanding for a Practical Arrangement on Payments to the Victims of the Rana Plaza Accident and their Families and Dependents for their Losses,' Memorandum of Understanding, November 20, 2013, https://ranaplaza-arrangement.org/mou/full-text/MOU_Practical_Arrangement_FINAL-RanaPlaza.pdf.
- ¹⁹ International Labour Organization (ILO), *Bangladesh: Rana Plaza Compensation Scheme: Technical Report on the Scheme Design and Operationalization, and Lessons Learnt and Other Relevant Questions*, 2015, pp.6-7.
- ²⁰ International Labour Organization (ILO), 'Improving Working Conditions in the Ready Made Garment Industry: Progress and Achievements,' ILO website, September 2016, http://www.ilo.org/dhaka/Whatwedo/Projects/WCMS_240343/lang-en/index.htm.
- ²¹ When the Rana Plaza Donors Trust Fund was established in January 2014, an initial fundraising target of \$40 million was based on preliminary estimates of worker injuries and permanent disabilities. After completion of the medical assessments and the final calculations of actual benefits, this figure was revised to \$30 million to reflect the fact that there were fewer cases of severe permanent injury than expected; see <https://ranaplaza-arrangement.org/news/rpcc-revises-estimate-on-funding-target>.
- ²² Of the five factories destroyed in the Rana Plaza collapse, New Wave Bottoms (NWB) was an approved supplier for Primark, an Irish-British budget fashion brand. Primark committed to pay compensation to the NWB workers, and also contributed nine months' salary to each factory and rescue worker who was in Rana Plaza on the day of the collapse, regardless of which factory had employed them. Primark was one of four apparel brands to serve on the Rana Plaza Coordination Committee, contributing \$1 million to its Rana Plaza Donors Trust Fund. However, Primark chose to create its own, independent system for calculating and delivering payments to the 581 NWB workers and their family members, who were compensated separately from the other Rana Plaza workers. For the NWB workers, compensation was not calculated in line with ILO Convention No. 121, and used instead the 'Bangladesh Scale' – an approach to disability and vulnerability assessment developed by Javier Chercoles (who was instrumental in creating the Spectrum Relief Fund after the 2005 collapse of the Spectrum factory in Bangladesh) and colleagues. Primark's NWB payments were completed in March 2015. See Butler, S., 'Primark to Pay £6m More to Victims of Rana Plaza Factory in Bangladesh,' *The Guardian*, March 24, 2014, <https://www.theguardian.com/world/2014/mar/16/primark-payout-victims-rana-plaza-bangladesh>; Chércoles Blázquez, J., L. García Rodríguez, K. Stewart, S. Mahmud, M. Neira Boga, *Bangladesh Scale: A Reference Methodology to Assess Personal Injuries and Disabilities Resulting from a Workplace Accident*, Associated British Foods, 2016.

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- ²³ Clean Clothes Campaign and International Labor Rights Forum, *Still Waiting: Six Months After History's Deadliest Apparel Industry Disaster, Workers Continue to Fight for Compensation*, 2013, p.21.
- ²⁴ Butler, S., 'European Ministers Urge Companies to Compensate Rana Plaza Victims,' *The Guardian*, June 26, 2014, <https://www.theguardian.com/world/2014/jun/26/rana-plaza-factory-victims-uk-ministers-compensation>.
- ²⁵ Surplus funds in the TCA Trust were redistributed to Tazreen claimants by deciding ultimately not to make the intended deductions for payments from the PM Fund and BGMEA for injured workers, and by reducing the amount of the deduction for dependants of deceased and missing workers to BDT 300,000 rather than the BDT 700,000 they had received; see Kazazi, M., *Final Report of the Executive Commissioner to the TCA Coordination Committee*, 2016, p.19.
- ²⁶ Kazazi, M., *Final Report of the Executive Commissioner to the TCA Coordination Committee*, 2016, pp.35-36.
- ²⁷ Facts about the fire are drawn from Bajaj, V., 'Fatal Fire in Bangladesh Highlights the Dangers Facing Garment Workers,' *The New York Times*, November 25, 2012, <http://www.nytimes.com/2012/11/26/world/asia/bangladesh-fire-kills-more-than-100-and-injures-many.html>.
- ²⁸ The number of people killed in the Tazreen factory fire is disputed; we adopt the TCA's count of 'over 112' deaths; counted among the dead are several 'missing'; see <http://tazreenclaimstrust.org>.
- ²⁹ There is evidence that the following companies sourced from Tazreen: C&A, Delta Apparel, Dickies, Disney, Edinburgh Woollen Mill, El Corte Inglés, Enyce, Karl Rieker, KiK, Piazza Italia, Sears, Teddy Smith, and Walmart. For a description of the evidence and some of the companies' responses, see CCC and IIRF, *Still Waiting: Six Months After History's Deadliest Apparel Industry Disaster, Workers Continue to Fight for Compensation*, 2013, pp.12-13.
- ³⁰ See Kazazi, M., *Final Report of the Executive Commissioner to the TCA Coordination Committee*, Tazreen Claims Administration Trust, 2016, pp.9-10. For a critical discussion of some of the unintended impacts of compensation efforts, see Sumon, M.H., N. Shifa, and S. Gulrukh, 'Discourses of Compensation and the Normalization of Negligence: The Experience of the Tazreen Factory Fire' in *Unmaking the Global Sweatshop: Health and Safety of the World's Garment Workers*, edited by R. Prentice and G. De Neve, University of Pennsylvania Press, 2017, pp.147-72.
- ³¹ Clean Clothes Campaign (CCC), 'Initial agreement reached on compensation,' November 2014, <https://cleanclothes.org/ua/2014/cases/tazreen>.
- ³² It should be noted that in this report the number of 'deceased' workers always includes 'missing' workers. Even with the use of DNA testing, the physical remains of many missing workers have never been identified. A common experience across all compensation schemes was the difficulty of assembling an accurate list of victims in the aftermath of the disaster; see Kazazi, M., *Final Report of the Executive Commissioner to the TCA Coordination Committee*, 2016, pp.13-18.
- ³³ Members of the Coordination Committee were C&A, C&A Foundation, IndustriALL Global Union, CCC, the Executive Commissioner and two members of TCA staff, and representatives from MoLE; see A. Qasem & Co., *Report on Compliance Audit of the Tazreen Claims Administration Trust (TCA)*, 2016, p.16.
- ³⁴ Members of the Steering Committee were BILS, BGMEA, National Garments Workers Federation (NGWF), Bangladesh Legal Aid and Services Trust (BLAST), Bangladesh Center for Workers Solidarity (BCWS), Bangladesh Garment and Industrial Workers' Federation (BGIWF), Bangladesh Occupational Safety, Health and Environment Foundation (OSHE), Activist Anthropologist, and MoLE; see A. Qasem & Co., *Report on Compliance Audit of the Tazreen Claims Administration Trust (TCA)*, 2016, p.16.
- ³⁵ See Kazazi, M., *Final Report of the Executive Commissioner to the TCA Coordination Committee*, Tazreen Claims Administration Trust, 2016, p.3.
- ³⁶ For information on how surplus funds were distributed among injured workers and the families of deceased workers, see Kazazi, M., *Final Report of the Executive Commissioner to the TCA Coordination Committee*, Tazreen Claims Administration Trust, 2016, p.19.
- ³⁷ For more information on Sanchayapatra, see Kazazi, M., *Final Report of the Executive Commissioner to the TCA Coordination Committee*, 2016, pp.33-35.
- ³⁸ Kazazi, M., *Final Report of the Executive Commissioner to the TCA Coordination Committee*, 2016, pp.35-36.

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- ³⁹ Walsh, D. and S. Greenhouse, 'Inspectors Certified Pakistani Factory as Safe Before Disaster,' *New York Times*, September 19, 2012, <http://www.nytimes.com/2012/09/20/world/asia/pakistan-factory-passed-inspection-before-fire.html>.
- ⁴⁰ Social Accountability International, 'Q & A: Ali Enterprises Fire in Karachi, Pakistan,' press release, September 20, 2012, http://www.sai-intl.org/_data/n_0001/resources/live/Q&A_AliEnterprises_8Dec2012.pdf.
- ⁴¹ 'Relief for the Victims of the Ali Enterprises Fire Case,' MoU signed by Pakistan Institute of Labour Education and Research (PILER) and KiK Textilien, 2012, <https://cleanclothes.org/safety/ali-enterprises/makekikpay/agreement-between-kik-and-piler-21-december-2012>.
- ⁴² Provincial Assembly of Sindh, Pakistan, 'The Sindh Employees' Social Security Act (SESSA),' 2016, <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/102143/123389/F-112089410/PAK102143.pdf>.
- ⁴³ Kamal, N., 'Burning Questions: The Karachi Factory Fire,' *Newsline Magazine*, October 2012, <http://newslinemagazine.com/magazine/burning-questions-the-karachi-factory-fire/>.
- ⁴⁴ Pakistan Institute of Labour Education and Research (PILER), 'Baldia Factory Fire Incident: 4 Years of Successful Campaign for Justice,' press release, December 2016, http://piler.org.pk/wp-content/uploads/2017/02/Brief_Baldia_Factory_Fire_Incident.pdf.
- ⁴⁵ Guriro, A. 'Victims' Families Still Await Full Compensation,' *Daily Times*, September 11, 2017, <https://dailytimes.com.pk/117475/victims-families-still-await-full-compensation/>.
- ⁴⁶ Ashraf, Z., 'Compensation Becomes a Bone of Contention Between Heirs of Baldia Factory Fire Victims, ILO,' *The Express Tribune*, June 21, 2017, <https://tribune.com.pk/story/1440665/compensation-becomes-bone-contention-heirs-baldia-factory-fire-victims-ilo/>.
- ⁴⁷ In each factory disaster, the number of deaths and injuries remains subject to uncertainty and dispute. This is particularly the case in the Rana Plaza disaster, where every living worker who claimed compensation is counted as 'injured' for the purpose of the compensation, regardless of whether physical or psychological injuries were reported. In all three cases, the number of deaths listed here includes workers confirmed as missing whose bodies have not been recovered or successfully identified using DNA testing.
- ⁴⁸ The Rana Plaza Arrangement lists the following corporate donors: Auchan, Benetton Group, Bonmarché, C&A Foundation, Camaïeu, Debenhams, El Corte Inglés, Everlane, G. Güldenpfennig GmbH, H&M Conscious Foundation, Inditex, Kappa Deutschland, Kik, L.C. Waikiki, Loblaw, LPP S.A., Mango, Mascot, Matalan, N Brown Group, Premier Clothing, Primark, Pvh, The Children's Place, Zebra Fashion. The non-profit BRAC USA also contributed to the RPA after receiving donations from brands including Asda, Gap Foundation, Hudson's Bay Company, VF Foundation, and Walmart; see <http://ranaplaza-arrangement.org/fund/donors>.
- ⁴⁹ In calculating compensation, workers' wages were retroactively upgraded in line with the December 2013 sectoral pay rise.
- ⁵⁰ In calculating compensation, workers' wages were retroactively upgraded in line with the December 2013 sectoral pay rise.
- ⁵¹ A small number of rescue workers injured or killed at the site also made claims through the Rana Plaza Arrangement.

