



Clean Clothes Campaign



April 2018

***Employment Injury Insurance
in Bangladesh:
Bridging the gap***



Front page: Protest by the National Garments Workers Federation to demand proper compensation for the victims of the Multifabs Ltd, Aswad Composite Ltd and Pakiza Textile factory incidents on 30 March 2018.

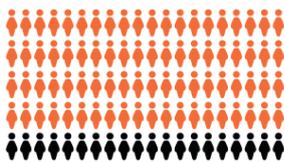


WHY DOES EMPLOYMENT INJURY INSURANCE MATTER?

Despite meaningful efforts to make factories safe, accidents do and will continue to happen. It is estimated that world-wide 2.8 million workers died in 2016-17 as a result of work-related disease and injury.¹ When a worker is injured or killed at work, families are faced with a sudden loss of a vital source of income. On top of the pain and suffering caused by the injury or death itself, and the cost of any resulting medical or burial costs, families have to face the stress of increasing debt and a sudden drop in their standard of living. This is particularly the case where workers are already in poverty as a result of their employment in very low wage industries, such as the garment industry, and where they have no access to social security systems.

In recognition of the impact that the sudden loss of vital income can have on working families, the right to loss of income payments and medical care following a workplace injury is an internationally recognised labour right. ILO Convention 121 sets out the standards for the provision of a state-run comprehensive employment injury insurance scheme (EII), which should be available to anyone injured at work, and which should provide a lifetime pension to a worker or his or her family.

There are over
4 million
garment workers in
Bangladesh, at least
80%
are women



These workers and
their families have
no access
to employment
injury insurance



WHAT HAPPENS TO WORKERS KILLED AND INJURED IN BANGLADESH?

Bangladesh has still not ratified Convention 121. Indeed, despite being the second largest exporter of clothing, and the location of some of the worse recent factory disasters, Bangladesh is one of only a handful of countries that entirely fails to provide for a national employment injury scheme for workers who are injured in private workplaces.²

Instead, Bangladeshi employers are held directly liable for the payment of compensation to an injured worker; with the burden placed on the individual worker to submit a claim, prove liability and enforce payment. In the garment industry, where some of the most hazardous workplaces are small and informal, many employers may not have the means to pay. Even when the employer is able to pay, in a context where unions are weak, legal enforcement is non-existent and workers have little bargaining power, families are often unable to demand the compensation they are entitled to, even when injuries are life-changing or fatal. In Bangladesh, legal provisions for payments to families following death at work are well below international standards and are not calculated on the basis of an individual workers circumstances (e.g income, incapacity, as required by Convention 121).

RANA PLAZA: A FIRST STEP TOWARDS EMPLOYMENT INJURY INSURANCE IN BANGLADESH

The Rana Plaza Arrangement represented a departure from prior efforts to win loss of income payments for workers, which were based on ad-hoc agreements, won through high profile public campaigning and funded through voluntary brand contributions. It was designed to establish principles and practices on which a more permanent scheme could be based.

1 <http://www.icohweb.org/site/images/news/pdf/Report%20Global%20Estimates%20of%20Occupational%20Accidents%20and%20Work-related%20Illnesses%202017%20rev1.pdf>
2 ILO, "World Social Protection Report 2017-19: Universal social protection to achieve the Sustainable Development Goals", p. 55, 60; http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf



Since the 2005 Spectrum disaster, and in the absence of a national EII scheme, international buyers have been asked to step in to provide the loss of income payments that families are entitled to. Until Rana Plaza, this had been delivered via unpredictable and ad-hoc arrangements, where workers rarely received their full entitlement and distribution was difficult to achieve and monitor. These processes often dragged on for many years, extending an already difficult period of grief and uncertainty for the families involved.

One of the principles of the Rana Plaza Arrangement, agreed upon by all signatories, was to use the process as a basis for the development of a permanent EII Scheme, based on international standards, which would ensure that any injured workers, or families or those killed would be provided with life time pensions to compensate for the loss of income resulting from the death or injury.

In the three years in which the Arrangement was operational, the Rana Plaza Coordination Committee, comprised of governmental, industry and labour representatives, worked hard to develop standards and operating procedures that combined international standards with the principles of national law. The Rana Plaza Coordination Committee and the ILO invested time and resources into developing expertise, technology and processes that could form the institutional basis of a future national scheme and which enabled similar payments to be provided to the victims of an earlier disaster: the Tazreen Fashion fire.

This meant that everyone involved was required to balance the political and practical pressures of delivering a post-facto, high-profile temporary scheme, which needed to achieve results quickly, with the expressed desire to develop a robust system which could form the basis for a future, more permanent solution; one which more closely followed the letter of Convention 121 and which was closely aligned with national law. The establishment of the Arrangement involved careful negotiation, compromises and a significant investment of time and resources; all of which will be rendered meaningless if the momentum towards a more permanent solution is lost.

WHERE ARE WE NOW?

The considerable efforts made towards the provision of EII after Rana Plaza have not yet led to a more permanent, equitable and predictable system for workers. According to the ILO, since April 2013 at least 27 workers have been killed in textile factory incidents, at least a further 490 have been injured in Bangladesh.³ Estimates by labour rights organizations based on local media reports yield higher numbers (also see cases on p. 7⁴). None of the people impacted in these incidents have received loss of income payments equivalent to those paid to the victims of Rana Plaza or Tazreen, few have been provided with adequate and free medical treatment.

Some progress has been made towards the development of an EII scheme. In the immediate aftermath of Rana Plaza there was a growing acceptance of the principle that an EII scheme is needed and the Bangladesh government committed to developing this by 2020. The beginnings of the national institutional

3 The ILO reports 491 injuries and 27 lives lost in garment industry incidents since Rana Plaza: ILO, "World Social Protection Report 2017–19", p. 64: http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_604882.pdf.

4 In March 2018, the Solidarity Center published a list of factory incidents which includes 512 people injured and 47 people killed since the Rana Plaza disaster: www.solidaritycenter.org/wp-content/uploads/2018/04/Bangladesh-Safety-Incident-Chart.4.9.18.pdf



development required to establish such a scheme got underway in the form of the Rana Plaza Coordination Cell and the Medical Trust for Injured Workers and in the training of numerous lawyers and doctors in medical assessment and claims processing as part of the Arrangement.

In the period since the Rana Plaza and Tazreen claims were paid, the ILO spearheaded a project, funded by the German government, to develop concrete proposals for a national EII scheme that have been shared and discussed with all relevant stakeholders. The proposals as drafted were met with a broad acceptance among the key parties, including the national trade union centres. Most of the outstanding questions are centred on how the scheme will be financed. Yet, over the last two years this work appears to have stalled and momentum towards meeting the 2020 deadline is being lost.

As time drags on, the institutional expertise developed through the Rana Plaza Arrangement is dispersing and the group of workers still waiting for their loss of income entitlements is growing. Without urgent action now all the efforts made following Rana Plaza will be lost, resulting in no meaningful change and we will be forced to return to pursuing loss of income compensation through long term campaigning and ad-hoc solutions.

No one benefits from this: workers will continue to suffer uncertainty at a time of terrible grief; brands will be held fully responsible for meeting the rights of workers



Aswad Composite Mill's factory fire, just six months after the Rana Plaza factory collapse. (c) WRC



and the Bangladesh garment industry will continue to be the focus of high profile campaigns for compensation.

WHAT IS THE SOLUTION?

The establishment of a national employment injury insurance (EII) scheme in Bangladesh is the only way to ensure that the rights of those injured at work are protected and that their families receive the loss of income payments and medical care they are entitled to.

Any such scheme must be permanent and be set up to provide loss of income payments and medical care to any worker injured or killed at work, regardless of fault. The scheme needs to provide life time pensions, rather

than lump sum payments and to put in place a permanent system for claiming and receiving such payments that is easy to access, difficult to corrupt and paid in a form that is most appropriate for low wage workers.

A meaningful EII scheme needs to be mandatory, state run and universal. Employer insurance schemes - where individual employers take out insurance to cover their own workers - are not in line with international standards and are particularly inappropriate in a context where the enforcement of basic employer obligations is weak and the employment relationships are often informal. Attempts to privatise the obligation to provide employment insurance is likely to leave the majority of workers - particularly those employed in smaller or subcontracted factories - without any protection and will do little to improve the measures already in place.

Bangladesh is no longer a country defined by its poverty and there is no excuse for the lack of social security provisions, which leaves workers permanently vulnerable to disaster or accidents. The garment industry has played a vital role in bringing foreign investment into the country and its workers have the right to expect that some of these profits are invested into systems that will reduce this vulnerability and provide livelihood security.



BRIDGING THE GAP

Immediate action is needed if the momentum for an EII scheme is to be maintained and victims of more recent disasters are to be provided with loss of income payments that meet international standards. Failure to act will represent a massive backward step for the garment industry. A bridging solution has already been proposed by the ILO, and was provided for in a Memorandum of Understanding signed between the Bangladesh Government, the German government and the ILO in 2015. The bridging solution now needs to be implemented as a matter of urgency.

It is clear that building further consensus on how the proposed EII scheme will be funded and delivered under a national legislation will take more time and careful negotiation, but this can not be used as an



excuse to ignore the plight of those already injured and of the families of those killed in recent factory incidents. It is essential that progress continues towards a much needed legal and insitutional framework for EII. This is why we are proposing that all stakeholders should take immediate action to support and lobby for the proposed EII scheme as developed by the ILO, and work toward developing a bridging solution, which can more quickly process existing and future claims.

The Rana Plaza Arrangement provides a good starting point: many of the technologies and methodologies used to calculate claims can easily be transferred to a bridging solution and to a EII scheme itself. While some aspects of the more permanent scheme may need further negotiation and testing, a bridging solution provides the possibility of trialling proposed approaches, ensuring they are appropriate and effective prior to embedding them more permanently into law. A multi-stakeholder oversight committee, for managing the bridging solution, can provide the political space and focus needed to negotiate and develop a more permanent framework for processing, distributing and funding claims.

MY BROTHERS' FAMILY IS NOW DEPENDING ON ME, WHICH IS A BURDEN. IF THEY WOULD RECEIVE FULL AND FAIR COMPENSATION THE FAMILY COULD SURVIVE ON ITS OWN. NOW I HAVE TO MAINTAIN TWO FAMILIES. - WORKER WHOSE BROTHER WAS KILLED IN THE MULTIFABS BOILER EXPLOSION IN JULY 2017



Brands and governments signed a **letter of intent** to establish national employment injury insurance



An **employment injury insurance** system will only cost

0.3%

of the wage sum. Wages are only

1-2%

of the total price of a garment

WHAT CAN BRANDS AND RETAILERS DO NOW?

Brands and retailers need to:

- Publicly announce support for the development of a national EII scheme in Bangladesh, including the bridging solution based on ILO Convention 121, and to urge the Bangladesh government and the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) to immediately engage in ILO facilitated negotiations towards this end.
- Formulate a collective approach to lobbying stakeholders, including the BGMEA, employers, the Bangladesh government. This includes promotion of the benefits that a mandatory permanent employment injury scheme will bring to the Bangladesh garment industry, from the perspective of major buyers, in scheduled meetings with the BGMEA, employers, governments and within multi-stakeholder initiatives.
- Clearly communicate to the Bangladesh government that the lack of an EII scheme is unacceptable and unsustainable in a modern economy and represents a considerable risk to the garment industry.
- Meet with the BGMEA and suppliers to discuss how an EII scheme can be made a reality and to request support and involvement in the development of a bridging solution.
- Push for an immediate multi-stakeholder agreement, facilitated by the ILO, which will establish a framework for a bridging solution which can ensure victims of the cases brought to the ILO in this interim period can receive the same levels of loss of income payment they would be entitled to under the proposed EII scheme.



Employment injury insurance is urgently needed in Bangladesh



Make Employment Injury Insurance a Reality



Bangladesh is the **2nd largest** exporter of clothing world-wide

Compensation for a workplace injury or death is a **fundamental right** for all workers



Some of the worst garment factory disasters happened in Bangladesh



Brands and governments signed a **letter of intent** to establish national employment injury insurance



An **employment injury insurance** system will only cost **0.3%** of the wage sum. Wages are only **1-2%** of the total price of a garment

There are over **4 million** garment workers in Bangladesh, at least **80%** are women



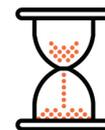
These workers and their families have **no access** to employment injury insurance



When will these promises become reality?



Since the Rana Plaza collapse in 2013, over **500** workers have been injured and more than **40** have been killed in garment factory incidents



These workers and families are **still waiting** for full and fair compensation

Less talk, more action

Brands and governments must fulfill promises of change and make employment injury insurance a reality in 2018

Workers and their families are waiting for full and fair compensation

- 8 Oct 2013**: 7 workers killed and 50 were injured in a fire in the Aswad textile mill producing for Primark, Next, C&A, H&M and others
- 10 Sept 2016**: at least 35 workers killed in a fire in the Tampoco packaging factory, working for Nestlé
- 3 July 2017**: 13 workers killed and 47 injured in a boiler explosion in Multifabs Ltd, producing for Lindex, Aldi, Teddy and others
- 9 Nov 2017**: 1 worker killed from burns sustained in a fire at Plummy Fashions, producing for Lidl

What needs to happen

- Fall 2018**: Employment injury insurance legislation tabled
- Before end 2018**: Bridging solution in place
- Before June 2019**: Employment injury implemented



Examples of factory incidents that need to be included in a bridging solution:

1. **Aswad Composite Mills:** A fire on 8 October 2013 killed at least 7 workers and injured 50. Brands: Next, Primark, H&M, Gap, Debenhams, C&A, Carrefour, Just Jeans, K-Mart Australia, Loblaw, Walmart, Target Australia, Morrisons and others.
2. **Multifabs Ltd:** A boiler explosion on 3 July 2017 killed at least 13 workers and injured 47. Brands: Stockmann, Lindex, Newbody, Gekås, Dansk Supermarked A/S, Rex Holm, ScanWear, Aldi North and South, Teddy S.p.A. and others.
3. **Plummy Fashions Ltd:** A worker died on 9 November 2017 after suffering extensive burns in a fire which occurred 6 days earlier at the factory Plummy Fashions Ltd. Brand: Lidl.
4. **Tampoco Foils** (a non-garment packaging factory): A boiler explosion on 10 September 2016 killed at least 34 workers, 9 went missing and dozens were injured. Brand: Nestlé. We understand that this case is referred to the ILO by Nestlé.

Urgent action is required to establish the proposed bridging solution to ensure these, and potentially other, victims are provided with the right to loss of income payments without further delay. These cases have been referred to the ILO.

5 FACTS YOU SHOULD KNOW

1. Many of the world's largest industrial disasters have occurred in the garment industry. While safety in Bangladesh garment factories has massively improved in those factories covered by the Accord, workplace injuries continue to occur, and workers in other factories remain at great risk.
2. Bangladesh is the 2nd biggest global exporter of clothing, with more than 4 million workers.
3. Bangladesh is 1 of 36 countries globally without any type of national employment injury insurance scheme.
4. In the 5 years since the Rana Plaza tragedy, at least 490 people have been injured, and 27 people have been killed in Bangladesh factory incidents. This includes just 6 months after the Rana Plaza disaster, when 7 people died in the Aswad Composite Mills factory fire.
5. Despite being an internationally recognised labour right, no one affected by garment factory incidents since the Rana Plaza collapse in Bangladesh has received full and fair compensation in line with international standards.

Meaningful change is possible: the Bangladesh government must implement a national employment injury insurance scheme, with an immediate bridging solution for those affected by factory incidents since Rana Plaza.