

Victims still awaiting compensation after Rana Plaza garment factory disaster in Bangladesh

Wednesday 5 March 2014, by [ILER Kirsten](#) (Date first published: 27 February 2014).

Contents

- [Developing a compensation](#)
- [Starting the claims process](#)

Following the failed compensation talks in Geneva in September 2013, an agreement has now been reached and a process established to compensate the victims of the Rana Plaza factory disaster in Bangladesh. Very few of the 28 retailers involved, however, have signed the accord or agreed to provide compensation to victims and their families.

One of several Bangladesh garment factory disasters in recent times, the Rana Plaza building collapsed in April 2013, killing or injuring nearly 3,000 workers. Reports have since surfaced that the mainly female workforce were threatened with losing their pay if they refused to work that day, even though the building was already showing cracks. Once inside, the doors were locked and managers instructed workers to continue to work, even as the building began to shake and crumble.

To date, some emergency relief has been provided by a few retailers (notably, Primark and Loblaw, sister companies both controlled by the Westons). However, Rana Plaza victims still await compensation. Workers who survived but are disabled await medical care and rehabilitation. Families who lived off of the meagre wages of workers who died are now in dire straits.

(For those who are able to work, a recent minimum wage increase that was supposed to improve conditions has reportedly resulted in workers being forced to work even longer hours, with increased targets, so those higher up can recoup lost costs.)

Developing a compensation process

A Coordination Committee was formed in Geneva to develop a compensation process. Committee members include global brands, local and international trade unions and NGOs, as well as participants from Bangladesh government and industry. The International Labour Organisation (ILO), a UN agency, is the neutral chair.

The Committee reached an accord in November 2013, called "The Understanding for a Practical Arrangement on Payments to the Victims of the Rana Plaza Accident and their Families and Dependents for their Losses" or "The Arrangement." It approved the operational plan in December 2013 and established the Rana Plaza Donors Trust Fund in January 2014.

While only eight of the 28 brands whose garments were made at the Rana Plaza factory showed up at the Geneva talks, only four of those 28 brands have signed on to the Arrangement: Spanish

department store El Corte Inglés, French department store Bonmarché, Loblaw (maker of Joe Fresh, whose clothes many women were sewing as they perished), and U.K. retailer Primark.

Noticeably absent are big brands such as Walmart, Mango, Children's Place, and Carrefour, each of whom refused to sign the accord or compensate victims. Lynda Yanz of the Maquila Solidarity Network says the brands "have reached a new low in the annals of corporate irresponsibility."

According to information posted on the Committee's website, the Arrangement is intended to be "a single approach to calculate benefits to injured workers and surviving dependents in an equitable and transparent manner according to their losses and consistent with the standards of the International Labour Organization and Bangladesh laws."

Under the Arrangement, the Committee's mandate includes (i) identifying losses that should be covered, in accordance with ILO Employment Injury Benefits Convention No. 121, (ii) provide support for the claims process; (iii) provide information management; (iv) appoint experts, Commissioners and technical staff, as well as (iv) providing oversight of the process, evaluating progress and "developing any further systems required for the successful implementation of the Arrangement."

The Agreement establishes a claims process as well as the Rana Plaza Donors Trust Fund, which will provide compensation to eligible claimants. The objective is to provide lifetime benefits to workers who are disabled and to surviving family members of workers who died in the collapse.

The Fund was set up in January 2014, will collect contributions and hold them in trust pursuant to a Terms and Conditions document.

The Fund accepts donations from "any organisation, company or individual wishing to support the delivery of financial and medical support to the Rana Plaza families."

Canadians who benefit from the extremely low prices at Joe Fresh and Walmart -- prices we now know are premised on the world's lowest working wage, repression and lack of human rights for working women in Bangladesh -- may also want to donate to the Fund.

The Bangladesh government, which has signed the Arrangement and provided about \$2.25 million to 777 victims, says they will not contribute to the Fund.

The Arrangement provides that a donation is "voluntary" and "does not imply legal responsibility or obligation for the accident," the Fund being simply "an expression of support for the victims of Rana Plaza."

It is estimated that the Fund will need US\$40 million in order to cover anticipated claims. If there are excess funds raised (which seems unlikely), the Committee will use a higher rate for calculating claims, while still complying with ILO standards.

Starting the claims process

Implementation of the claims process will be handled by local organizations and international experts who will support applicants (victims, their families and dependents) with the claims submission process, including assessment of losses and medical conditions, as well as provision of medical care and follow up.

The calculation of amount to be paid to beneficiaries will look at each specific case and needs, and

be based on a victim's lost wages. For instance, a worker who was left totally disabled by the factory disaster would receive 60 per cent of the current wage for the rest of his or (more likely) her life. A worker who was left partially disabled would receive a percentage "equal to the degree of disability."

Surviving dependents of a dead or "missing worker" would, so long as they remain eligible dependents, receive 60 per cent of current wage payable if there are three eligible dependents or more. The definition of "eligible dependent" is defined in accordance with the Bangladesh Labour Act, 2006 and includes: a) "a widow, minor child, unmarried daughter, or widowed mother," and b) "if wholly or partly dependant on the earnings of the worker at the time of his death, a widower, father or widowed mother, a daughter if unmarried or minor or widowed, a minor brother, an unmarried or widowed sister," among others.

The reference to "missing worker" is significant because, due to the level of devastation at the factory site, many workers remain unaccounted for, and families are still awaiting the results of DNA testing nearly a year after the disaster. In addition, government workers were accused of removing bodies immediately following the factory collapse in order to reduce the death count, so some bodies may never be recovered.

Experts advise that at least US\$10 million in donations is needed before the claims process can get underway. A miniscule amount, given that the garment industry in Bangladesh is worth some US\$22 billion annually.

The Committee gives no indication of how close to this goal the Fund is. Once sufficient funds have been raised and claims processing can begin, first awards would be made relatively quickly, within four to six weeks.

Although the Arrangement sets out a compensation process based on ILO standards and Bangladesh law, if more pressure is not placed on the remaining 24 brands to contribute to the Fund, sadly, it looks like it could be a while yet before victims and their families receive the compensation they deserve.

Kirsten Iler, 27 February 2014

Iler Campbell LLP is a law firm serving co-ops, not-for-profits, charities and socially-minded small business and individuals in Ontario.

Pro Bono provides legal information designed to educate and entertain readers. But legal information is not the same as legal advice — the application of law to an individual's specific circumstances. While efforts are made to ensure the legal information provided through these columns is useful, we strongly recommend you consult a lawyer for assistance with your particular situation to obtain accurate advice.

P.S.

* Original title: "Rana Plaza victims still awaiting compensation after garment factory disaster": <http://rabble.ca/columnists/2014/02/rana-plaza-victims-still-awaiting-compensation-after-garment-factory-disaster>

* Kirsten Iler is a contributor to rabble's Pro Bono column. She is part of the corporate, commercial,

real estate division of Iler Campbell LLP where she advises non-profits, co-ops (including renewable energy co-ops) and charities on matters related to governance and regulatory matters, contracts, commercial leasing, commercial real estate transactions and financings.