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Rana Plaza: Workplace Safety In Bangladesh (B)

In the wake of the 2013 Rana Plaza building collapse, which killed more than 1,100 Bangladeshi garment workers, a group of retailers formed a pact to prevent future disasters. Some firms hesitated to sign the legally binding contract, fearing litigation. The labor unions and European firms which created the pact were concerned about the lack of cooperation and the implications for reform in Bangladesh.

Bangladesh Fire and Safety Accord

On July 8, 2013, over 80 global retailers, mainly European, and two labor unions proposed a five-year plan to improve working conditions in Bangladesh garment factories called the “Bangladesh Fire and Safety Accord” (BFSA).¹ Features of the pact included:

- Independent inspections of factories, with safety violations made public on the Internet
- Retailers to underwrite mandatory repairs and building improvements at factories
- Fire and building safety training to be given by trade unions
- Trade unions to have a seat on the Accord’s governing board
- Legally binding arbitration for non-compliance, led by the Accord’s steering committee

The pact required inspection of factories working for the signatories over two years.² During that period, signatories of the Accord agreed to maintain production in Bangladesh. Participating retailers would share information about the factories they used, and each of those factories would be inspected within nine months.³ Factories found to be unsafe would close for repairs, and workers would be paid up to six months’ salary during that time.⁴ The cost of implementation would be split according to the proportion of production each brand had in Bangladesh – with a maximum outlay per retailer of \$2.5 million over five years.⁵ If a retailer failed to provide funding, or continued production in unsafe factories, the signatories could file complaints. A committee composed of three labor group representatives, three brand representatives and one member from the International Labour Organization (ILO) would enforce the Accord’s terms.⁶ Disputes would be referred to arbitration, as needed, and the outcome would be legally binding in the brand’s home country. No penalty provisions were included in the pact.⁷

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By October 2013, the Accord had grown to include over 90 international retailers.⁸ Since the formation of the Accord, its signatories had been compiling a list of factories in Bangladesh which they used for production. On October 2, 2013, the list of nearly 1,600 factories used by members of the Accord was published on the organization's website.⁹ The factories on the list employed more than two million workers.¹⁰ Inspections of all factories that produced garments for the Accord's signatories would commence in April of 2014, and would be led by the Accord's soon-to-be-appointed safety inspector.¹¹

Alliance for Bangladesh Worker Safety

Although more than 90 retailers signed the BFSa pact, the absence of US firms was conspicuous. Only a few U.S. companies, including Abercrombie and PVH (Calvin Klein, Tommy Hilfiger,) had signed. Wal-Mart and Gap argued that the legally binding arbitration clause carried too high a risk of litigation.¹² European firms did not face the same financial risk, since the EU legal environment did not facilitate class action lawsuits with unlimited damages.^a On July 10, 2013, U.S. retailers and brand name manufacturers, including Wal-Mart, VF and Gap, announced the creation of the "Alliance for Bangladesh Worker Safety" (ABWS). The features of this five year pact were largely similar to the BFSa (including inspections for members' factories, with factories to be notified of safety violations)¹³ but it was not legally binding and there were some other differences:

- Retailers' direct funding of repairs would be smaller (maximum per retailer of \$1 million vs. \$2.5 million) but \$100 million of loans would be available to factories to fund repairs.¹⁴
- Retailers would be able to leave the Alliance at any time, provided the initial funds they had promised were paid (up to \$1 million)¹⁵

Responsibility to comply with safety standards fell to factory owners. The Alliance would identify violations and offer loans and financial support, but would assume no legal obligation for improvements to be made. The threat of loss of business would, it was argued, be sufficient to enforce factories' safety compliance.¹⁶

The Alliance numbered twenty retailers by October 2013. Since its inception, the Alliance had drafted a set of uniform fire and building codes with the Bangladeshi government and the ILO.¹⁷ The unified codes would be used in the inspections of members' supplier factories, to be completed by July 2014. The Alliance also developed fire and safety training courses, and, in the fall of 2013, was seeking Bangladeshi partners to help with implementation of training. By October, signatories of the Alliance had completed the list of the 620 factories¹⁸ they used and submitted it to the Fair Factories Clearinghouse, a non-profit funded by the industry, which helped the companies share data on factory conditions with one another.¹⁹

The ILO and the U.S. Government

In October 2013, the ILO announced a \$24.2 million effort to inspect and fund repairs to the approximately 2,500 factories not covered by the Accord and the Alliance.²⁰ These factories were thought to include many of the least safe operations. Around \$15 million of this was contributed by the Dutch and British governments.²¹

^a European courts generally prohibited class-action lawsuits, did not allow the successful litigant to collect contingency fees, and required the loser to pay legal fees for both parties. As a result, fewer lawsuits were filed.

Some believed that the garment industry in Bangladesh could be improved by learning from measures adopted in Cambodia. In 2002, with the assistance of the ILO, Cambodia implemented a workplace rights program that included provisions for collective bargaining and arbitration.²² The ILO initiated the Cambodian Arbitration Council, a three person panel (one labor representative, one employer representative and a neutral arbitrator) to resolve disputes under collective bargaining agreements. All awards were decided within fifteen days of the submission of the dispute to the council. Eighty percent of the cases heard by the council came from the garment industry.²³ The council was considered successful because it was less susceptible to bribes than the courts and the disputes were resolved quickly.

Others argued that the success of the Cambodian Arbitration Council was predicated upon the U.S. – Cambodia Trade Agreement on Textiles and Apparel, enacted in 1999.²⁴ The agreement waived tariffs on and increased the import quota for Cambodia's garment and textile exports to the U.S., as long as working conditions in Cambodia's garment factories were in compliance with ILO workplace standards. Such a system would, it was argued, be difficult to replicate in Bangladesh in 2013. The World Trade Organization (WTO) prohibited its members, including the U.S., from raising tariffs against each other on a discriminatory basis.²⁵

In June, 2013, President Obama removed Bangladesh from the Generalized System of Preferences (GSP) due to labor and safety issues. The GSP waived tariffs on imports into the U.S., but garments and textiles were excluded.²⁶ Out of the \$4.9 billion worth of goods imported into the U.S. from Bangladesh in 2012, the GSP applied to only \$34.7 million.²⁷ The GSP termination sent a warning to the Bangladesh government, but did nothing to change the position of US retailers or improve factory conditions.

Separately, the Federal Food and Drug Administration proposed new legislation in July, 2013, to make food importers legally responsible for insuring that their food imports met domestic safety standards.²⁸ Some believed that similar legislation could be applied to garment importers to prevent safety and labor failures, such as those that caused the Rana Plaza disaster. Some states had already passed laws requiring that products purchased by state agencies (including, for example, uniforms) be sourced either from American factories or from importers who certified that the products were made overseas in factories complying with U.S. standards.

Another approach to certifying production standards in supply chains was the "Fair Trade" label. The label could be placed on products manufactured in compliance with the International Labor Conventions^b recommended by the ILO.²⁹ Independent non-profit organizations typically performed the audits. "Fair Trade" products often carried higher prices, reflecting the higher cost structure associated with fair labor practices.

A Workplace In Progress

During the three months following the formation of the BFSA and ABWS pacts, Bangladesh garment workers went on strike to obtain better working conditions. Workers demanded an increase in the Bangladesh minimum wage from 3,000 taka to 8,000 taka per month (\$38 to roughly \$100).³⁰ Garment factory owners balked; the Bangladesh Garment Manufacturers and Exporters Association offered to increase the wage by 20% (to about \$46 per month).³¹

^b The ILO conventions protected the freedom to associate and to receive fair remuneration, and also prevented the use of child labor. In order for the conventions to prevent against another disaster like Rana Plaza, additional protections around worker safety and structural compliance would be needed.

In September 2013, garments workers in Bangladesh held a strike to protest the low wages and poor working conditions offered by the factories. The three day worker strike culminated on September 23 2013, with over 100 garment factories forced to close. A BBC documentary aired on the same day showed factories with ties to H&M, Gap and Lidl forcing workers to take shifts longer than fifteen hours.³² The legal limit on daily working hours in Bangladesh was ten hours, which included two hours of overtime.³³ Nevertheless, during the period between July and September in 2013, the value of Bangladesh's garment exports rose 24% over the same period in 2012.³⁴

Fire in the Aswad Textile Mill

On October 9, 2013, three months after the formation of the Accord and the Alliance, a fire broke out in the Aswad Composite Mills Ltd. Textile factory outside of Dhaka. The factory made fabric rather than finished garments, but the fabric was used in factories which made finished garments for signatories to both the Accord and the Alliance. The fire at the Aswad factory killed seven people and injured fifty more.³⁵ The Aswad Mill housed 200 workers at the time of the fire, and the neighboring Aswad garment factory employed 3,000 more during peak hours.³⁶ The disaster took place outside of normal working hours, and was contained in the mill, which helped to reduce the casualties.

The event sparked renewed conversations around the urgency of workplace safety issues in Bangladesh and how to insure the safety of workers at sub-contractors used by suppliers to the signatories of the Accord and the Alliance. "The safety accord in and of itself doesn't change anything, which is why this fire underscores the urgency of getting factory inspections and renovations under way," said Scott Nova, director of the DC-based non-profit, Worker Rights Consortium.³⁷

Meanwhile, survivors and families of those who died at Rana Plaza struggled to obtain compensation. IndustriALL, a Bangladesh labor union, demanded \$74 million compensation on their behalf, \$35 million to be paid by the retailers who sourced from Rana Plaza, the remainder to be paid by factory owners and the government.³⁸ In September 2013, the ILO and IndustriALL invited 28 companies that sourced garments from Rana Plaza to a Geneva meeting but only 10 sent representatives.³⁹ However, four of these (Benetton of Italy, El Corte Ingles of Spain, Primark of the U.K. and Loblaw of Canada) formed a committee to create an accident fund.⁴⁰ On October 24, 2013, Primark unilaterally decided to pay six months wages to surviving Rana Plaza workers and the families of the deceased,⁴¹ pending the resolution of long-term compensation.

Endnotes

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