

Global brands' obligation to protect workers' right to form trade unions

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THREE years ago, the world witnessed the Rana Plaza building collapse - one of the most horrific workplace accidents that could have been prevented but which led to the death of over 1,134 garment workers, and left over 2,500 injured. Behind these numbers is a story: a mother who lost her daughter, a child who has lost his mother, and a wife who has lost her husband. To this day, vivid images of workers being pulled out of the rubble and dead bodies entangled with the debris of the building haunt me.

The tragedy clearly revealed safety concerns in the physical structure of buildings that housed garment factories and the need for improved building safety code and safety inspections. The Accord and Alliance are two safety inspection programmes that are seeking to accomplish this but they are only a 5-year programme and are set to expire in 2018. We need to have long-term and sustainable solutions to labour rights especially as Rana Plaza recedes further back into our global consciousness and other issues grab our attention.

The tragedy also revealed a profound gap in what I call the human rights infrastructure for workers, and their vulnerabilities in the global supply chain and high potential for human rights violations. In other words, when such a tragedy occurs, we clearly see where the State and relevant stakeholders have not created adequate laws or protections that workers could have accessed to prevent a similar tragedy or avoid other labour rights violations. For example, had the workers had a trade union in place that could have advocated for workers to refuse to enter the unsafe building, it is possible that we may have avoided this catastrophe. Or if laws existed that allowed a worker to refuse to work in unsafe conditions, and protected such worker from any retaliation from the employer, then workers may have been able to refuse to enter the building after observing cracks.

Rana Plaza demonstrates the critical role trade unions can play in shoring up this rights infrastructure gap, and we need to move beyond an unproductive polarising discussion around trade unions, and move towards policies that develop robust trade union rights so workers can have a vehicle to raise their concerns.

The Government of Bangladesh should

work towards removing barriers for workers to form unions. The process to forming a trade union is cumbersome and bureaucratic, and often leads to rejections from the Department of Labour without adequate cause. While employees no longer require permission from an employer to file for registration, employers often find out that a unionisation process is underway and intimidate workers from going through the process. One worker shared that when she was organ-

around the already difficult process of having to collect signatures of 33 percent of the workers.

Beyond the Government's role in ensuring that workers are able to form trade unions, the global brands have a key role to play here. When asked what brands could do, workers consistently said that brands should only source from factories where there exists a trade union or give preference to companies who have a worker formed trade union

address labour rights issue.

The Guidelines explicitly refer to the ILO Declaration on Fundamental Principles and Rights at Work that includes the right of freedom of association and the right to collective bargaining. The right to collectively bargain is one of the fundamental rights that businesses should also protect.

It is therefore good corporate practice for global brands that source from Bangladesh to ensure that workers who produce their gar-

including Nike and Adidas that bind the parties to a set of standards and procedures to ensure that factory workers have the freedom to form unions and organise for their rights, is a good place to start for some ideas. There, the factories set forth some clear guidelines to ensure that workers can form a union, and also bargain collectively with their employer.

UN Guidelines also advise businesses to create remedies for human rights violations. Where trade unions are not able to form due to employer obstruction or retaliation, or government delay, global brands should create an alternate dispute settlement mechanism for workers to bring those concerns to their attention. Having some dispute settlement mechanism in place, even an informal one, will allow brands to know what is happening at the factory level, and will clue them into any human rights issues in advance of it progressing to a more alarming level.

No longer can brands turn a blind eye to labour rights violations, and having a proactive approach is not only right in terms of upholding human rights but also protects their business interests, and the integrity of their brand. Slogans like "clothes to die for" or "blood on your shirts" do nothing to build consumer confidence to purchase clothes that may have been produced in violation of labour rights.

When the global brands signal to garment factory owners that they value trade unions and workers' ability to organise, owners will feel incentivised to follow suit. It is an incentive worth promoting, especially if it can save lives, protect workers, and promote a business that values the labour of its workers, and not view them as expendable commodities. As we mourn those who died in Rana Plaza, let us remember they have human rights because they are human beings. Behind every worker is a story, a family that is struggling to provide a better future for their children. Let's commit not only to inspect the building structure to avoid another Rana Plaza, but also to institute the human rights infrastructure needed for people to live with respect and dignity.

The writer is a human rights attorney and editor of online platform Law@theMargins (www.lawatthemargins.com). Follow her @lawatthemargins. Note: Join Chaumtoli Hug as she hosts an online discussion on the State of Labour Rights in Bangladesh on Monday, April 25 at 10AM EDT (8pm Dhaka Time). Register here: <http://lawatthemargins.com/0425ranaplaza/>



PHOTO: STAR FILE

ising in her factory and filed for registration, the Labour Department contacted the employer to "verify whether the list of workers" were in fact employees there. This was a ruse to inform employers of the list of workers who were unionising. Then, prior to registration, those workers were terminated and it undermined the organising process. There are countless other examples of thwarting efforts of unions, even after workers get

in place. This preference would incentivise owners to allow trade unions to exist.

There is in fact support for corporate brands to proactively support trade unions and the exercise of freedom of association as per the UN Guiding Principles of Business and Human Rights that advises transnational businesses to address human rights impact of their business. While not binding, the UN Principles provide a blueprint from which to

ments are able to collectively bargain for labour rights. At present, in factories I have visited last year, some brands have posters and signs that communicate this right, but that is not enough as most workers are not aware of their rights under trade unions.

Global brands need to make a more proactive effort. The Indonesian Freedom of Association Protocol with unions, factory management and international brands,

THE ACCORD AND ALLIANCE Beyond state governance?

MAHMUDUL H SUMON

FROM the insiders of the RMG sector, there is an indication that both the Accord on Fire and Building Safety (hereafter the Accord) and the Alliance for Bangladesh Worker Safety (the Alliance) are having an impact on the garments industries of the country. From different sources (the most recently being the TIB report), it appears that the big factories are going through some changes and this is unlike the previous era where the compliance regime was somewhat voluntary (and hence could be easily flouted!) compared to today's new regimes. Since the factory owners have grown to detest these newly installed mechanisms of governance (to the extent that, out of anger perhaps, one owner of a group of factories, has recently commented that the owners should be given the option of "self governance"), we may say that these new inspection regimes are having some impact. Often these inspections require the owners to channel new funds for improvement of the workplaces. Needless to say the factory owners never enjoy such expenses!

However, one must not forget that it is the total disregard of factory owners (except for some) of issues such as work place safety and security and their apathy towards worker's life and livelihood that we've come to this situation. Just imagine how many lives could have been saved, had the workers of Rana Plaza not been forced (by the management and staff of their respective factories) to enter the building which already had cracks. Due to these same cracks, some other officers and workers from the same building were clearly instructed to stay away from work in that building. But the same didn't happen to the workers of what is often called the "global garments production." Why? Because, this would have impacted on the shipment. It is estimated that close to 2000 workers died in the RMG factories of Bangladesh in the last two decades.

It is in the aftermath of Tazreen fire and Rana Plaza collapse, which killed 119 and 1,136 workers respectively, that we've seen the introduction of these new regimes of governance in Bangladesh. Both of these inspection regimes are said to be "independent" (my emphasis), legally binding agreement between global brands and retailers and trade unions designed to build a safe and healthy Bangladeshi Ready Made Garments industry. By the proponents of these mechanisms, these developments have been seen as a historic achievement. In fact an attempt to have a legally binding document which will hold the brands and retailers responsible for their shoddy practices in the global supply chain, has been a long standing demand by campaign groups like CCC (Clean Clothes Campaign) and some other global unions. The sad events of Tazreen Fashion's fire

and Rana Plaza collapse expedited the process.

If we look at the objective of these institutional arrangements, it is all too apparent that these two sets of mechanisms are set to conduct "independent" inspection programmes amongst factories in Bangladesh [only from firms from where the signatory brands (the Accord) and groups of North American retailers (Alliance) source their products]. Both of these institutions have intentions to publicly disclose these inspection reports and take corrective action plans etc. They also have training programmes for what they call the workers. "empowerment" and also have plans for sustainability of the project. In structure, they have some similarities although they represent two different sets of global brands namely, the European brands in the case of the Accord and North Americans brands and retailers in the case of Alliance.

Despite its apparent success, there are two set of questions that I would like to pose in the

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aftermath of the Accord and Alliance: One is of course related to our position with regard to the setting up of these mechanisms of transnational governance: As citizens of Bangladesh, how do we want to look at these transnational regulatory bodies that "fix" problems in our country? Finally what are the implications for the workers in this particular sector? I think this is a very important question, which highlights the way we look at issues of citizenship. What needs to be asked is: how should such mechanisms work in Bangladesh? What kind of relations must they have with the government and its different relevant regulatory bodies?

I think that there should be some close collaboration between the transnational bodies and the government and its different regulatory bodies. This I say despite knowing fully that it is the failure of the local regulatory mechanism of the country which brought mechanisms such as the Accord/Alliance in the first place. In

other words, I am trying to say that despite this being what is often called a Global Production System, we must not forget where the factory is located and where the responsibilities lie. This conceptual premise will help us remain more specific to the context (i.e. Bangladesh). After all one must not forget that these mechanisms are time bound. What will happen after five years when the mandates of these mechanisms are gone?

My second set of questions is related to the very philosophy behind the idea of the Accord/Alliance. In the process of operationalising the Accord, one must ensure that the workers' right to jobs and their continued income cannot be compromised in the process. These mechanisms of governance have a very technocratic approach which is devoid of an understanding of the livelihood situation of the workers. Professor Rehman Sobhan in a recent speech commented that these new regimes of regulatory bodies in the garments sector of Bangladesh are "therapeutic in nature" and operations such as these don't work. I would just add to his comment by saying that a technocratic approach does not give enough attention to the day to day survival of the workers and instead, looks at the issue of workplace security from a narrow technical perspective, leaving out all other spaces where the workers are vulnerable and marginalised. I think that this is an important area where focus needs to be given. Serious inequities and hierarchical relations continue to exist in the garments factories of Bangladesh which has grave implications for health and safety of the workers in general and female workers in particular.

The different regulatory bodies of the country needs to focus on this area. An improved culture needs to be developed between the owner/management and workers and in some cases between management and workers. Some research findings show that often the management at the shop floor is more manipulative than their owners because in the day to day operations, it is the factory management which is more responsible for the running of production. The status of subcontracting factories which forms the core of the supply chain often remains beyond the preview of our discussions (a recent study lead by Sarah Labowitz titled "Beyond the Tip of the Iceberg: Bangladesh's Forgotten Apparel Workers" also confirms this observation). It is in these spaces of very poorly built factories the labour and labour conditions remain most precarious. The Accord/Alliance seems to be mostly interested to work with factories which are top suppliers of Western buyers and retailers. Thus, we must refocus our attention to the state's regulatory bodies and make sure that the work and safety conditions of these relatively less attended spaces are given adequate attention.

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