

# Workers' Death and Working Lives

*Accident at Virgo Washing Co., Okhla Industrial Estate*

People's Union at Democratic Rights

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In one of the most serious industrial accidents in Delhi in recent years, six workers died from an explosion and fire in a fabric-washing factory within the Okhla Industrial Estate on 16 September. Twelve workers were inside the factory at the time. Two of them, Ajay Lamba and Sunil Singh, died on the spot. Five others suffered serious burns. Four of these workers—Rajesh, Ramji, Ajay Singh, and Dinesh—died in the days following the incident. The rest were treated at Safdarjung hospital and discharged after treatment. Not a single worker or their families have received compensation so far.

The accident took place at Virgo Washing Co., which operated a rented premises at 212, Okhla Industrial Estate, Phase III. The factory, owned by a Rathi Varadarajan, washes garments exclusively for a larger company, Kashika Enterprises, jointly owned by Rathi and her mother, Usha Varadarajan. Virgo has about thirty-five workers, most of whom have been hired through a contractor, Shambhu. A majority of them are migrants from Gaya and Munger districts in Bihar.

The parent company Kashika (268 Sant Nagar, East of Kailash) is a medium-sized, profitable company with around two hundred workers. It makes quilt covers, pillowcases, bedsheets and curtain material. After the fabrics are made, they are sent to a small number of such washing units. (Unlike Virgo, the ownership status of these other units is not clear.) At Virgo, the fabrics are washed in a machine with acetone and other solvents, which are highly inflammable. After being machine-washed, in case there is still a stain on any fabric, it is cleaned with the help of a spray gun using a more concentrated solvent, the choice of which was decided and supervised by Ramji, the master workman who died. The fabric is then washed with water in a large washing machine, and dried in another machine. The garments are then sent back to the parent unit at Sant Nagar. There the cutting of stray threads and final checking is done, the company label attached, and the goods packed for export.

## **The Accident**

The Virgo factory consisted of one long room about twenty-five feet wide and forty feet long. There was a door at one end of the room, which was the only exit. We were told there were two large fans near this door. The first half of the room used to contain the piles of fabric. In the second half of the room were the cleaning and drying machines and a work-table where the stains were removed manually. The room also had big drums of solvents. Solvents are not merely highly inflammable, they also vaporize easily. These fumes, if allowed to accumulate beyond a point, can ignite at the smallest spark.

The accident took place at lunchtime, at around 1.20 p.m., and would have been even more serious had it happened during regular working hours. Of the thirty-two workers who reported for work that day, there were only those twelve workers inside the factory at the time. Some were having their lunch and others were working. There was a spark, caused either by the drying machine or an overhead tubelight. The solvent fumes ignited and there was an immediate explosion. Simultaneously, three drums containing 660 litres of solvent exploded. The blast was so powerful that the nearest wall was destroyed. Flames enveloped Ajay Lamba and Sunil, who died on the spot. The other workers trapped inside were all injured to varying degrees — five of them suffered around 90% burns — since the only exit was too far to reach. Ramji survived the initial explosion but went back in to save somebody from the flames. Instead, he too was seriously injured and died a few days later.

The dead and injured were taken by the police to Safdarjung hospital. At the hospital, the police made the injured workers put their fingerprints on sheets of paper, which had some details. Since most of them are illiterate, they could not read the contents. Nor perhaps were they in any condition to read. In any case, the contents of the signed sheets were not read out to them by the police.

## **Denial of Compensation and Responsibility**

Nearly a month after the six workers died, none of their families, nor any of the injured workers have received any compensation. According to Usha Varadarajan, the families of the dead were given ten thousand rupees towards the last rites. This was corroborated by some workers and contested by others. Ajay Lamba's family did get some money, but only Rs 5,000; the others may have received slightly larger sums. However, it scarcely constitutes compensation for deaths. Had they been covered under ESI — only two of those killed were covered — the families would have been more assured of at least receiving an insurance pension, however meager. Denied ESI Insurance, the majority of the accident victims are left to the mercy of the factory owners. According to the Workmen's Compensation Act, 1923 — which applies in the absence of ESI — the families of the deceased should receive over two lakh rupees as compensation from the owners.

The owners have also been trying to evade criminal culpability for the accident. Usha Varadarajan tried to suggest that Shambhu was responsible since he was the contractor. According to an agreement made in March 1999 between Virgo Washing Co. and Shambhu, the latter was responsible for the job of washing and drying fabric on a mutually agreed piece-rate basis. The owner of Virgo, Rathi Varadarajan, was responsible for the hired premises and for the furniture and machines inside the factory. There is no doubt that Shambhu is also culpable, but it is obvious that the Varadarajans, as principal employers and owners of the factory, are even more so.

The Varadarajans are also trying to shift the responsibility on to Khanna, the owner of the rented premises, implying that lighting is the building owner's responsibility. The Factories Act, 1948, clearly states that the owner of premises is only responsible for common facilities, and that the responsibility within a unit lies with the 'occupier', i.e. the owner of the factory and not of the building.

All this is legal nit-picking. The owners have refused to pay any compensation on the grounds that the court has to decide who is culpable. Such a legal battle is a deeply unequal one. The workers and their families will have to go through a long and expensive legal process to get their due compensation. Given that they are contract workers and unorganized, it is likely that they will settle out of court for a modest compensation, much lower than what the Act specifies,

### **Illegal Operations, Official indifference**

The Virgo unit ran illegally. In order to start manufacturing or any other activity in Delhi, the owner has to obtain an Industrial license from the licensing authority. Rath! Varadarajan chose not to do so, like countless other factory owners in this city. She merely hired the premises and started operations. Indeed, according to the local Delhi Vidyut Board office, the factory did not even have an electricity connection, since the owner of the premises, Khanna, had not paid his electricity bills. The entire building ran on a generator.

The local police are usually the first authorities to find out that a factory is running illegally. They ought to send a complaint about illegal operations to the Labour Department, but the police, of course, were bribed into silence. As for the labour department, under section 9 of the Factories Act, a factory Inspector has the authority to inspect factories and machinery, and test any potentially hazardous substances used. The inspector told PUDR that the department was unaware of the existence of Virgo Washing Co. since it was not a listed and licensed factory. With the department being short staffed, he said, no inspection could ever be done of such illegal factories. Given that Virgo operated for three years within a designated industrial estate, such a position suggests apathy, if not connivance. As it is, it is the Delhi government's responsibility to ensure adequate staffing. In a larger sense, shortstaffing is a non-reason.

Such illegalities and official indifference have a direct bearing on workers' safety and health since it is out of the question that adequate safety measures will be installed when the operations itself are illegal. And when they become responsible for the deaths of six workers, these illegalities become criminal.

The future of criminal prosecution of the accused is unclear at the moment. The police lodged an FIR under sections 304A (causing death by rash or negligent act) and 338 (causing grievous hurt by negligent act) of the Indian Penal Code. However, the entry in the FIR called 'Names & Address of the Criminal' is blank. No chargesheet has been filed so far. The police maintain that they are unable to file the chargesheet until the Fire Department and the Labour Department submit their reports. But according to the fire station officer at Nehru Place, there has been no request for his report. In any case, his report, which he says will take a day to prepare, is not yet ready since he could trace neither the owner nor any of the workers. Such delays will obviously benefit the accused. The investigating officer told us that Usha Varadarajan had applied for anticipatory bail, which he claimed had been rejected. Despite that, one month after the accident, there has been no chargesheet by the police, no arrests, and not a single report from any of the concerned authorities. The contractor Shambhu is absconding. The police say Shambhu is probably in Gurgaon but he has not been tracked down as yet.

The Chief Inspector, Factories, at 15, Rajpur Road did say that two cases had been filed against the Virgo management, one by him for their running an illegal factory and the other by the Electricity Department for the use of unsafe electricity. These are criminal offences but in the Chief Inspector's recollection, no owner had ever been imprisoned for these offences. These cases normally result in fines.

The police are confident that the case against the Varadarajans is a strong one. However, given the social standing and political connections of these owners of Virgo and Kashika, the outcome of the criminal case remains to be seen.

## **Workers, Work Conditions and the Contract System**

Besides operating completely illegally, the Virgo factory owners and the contractor violated many sections of the Factories Act, 1948; the Contract Labour (Regulation and Abolition) Act, 1970; the Minimum Wages Act, 1948; the Employees' State Insurance Act, 1948; the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; and other Acts pertaining to hazardous substances, processes and industrial safety.

Employing workers through contract enabled the Varadarajans to reduce their obligations and costs, although principal employers of contract labour are completely liable for shortcomings of wage or any other. They hired a contractor who undertook to do the work in their own factory for a pre-arranged fee. Shambhu made his profits out of this fee by squeezing the workers. (According to one of his relatives, Shambhu makes between one and one and half lakh rupees a month as a contractor, including his contract interests in Gurgaon and elsewhere). The number of workers fluctuated slightly. A few months ago there were only about 27-28 workers in Virgo. Some were made to work for some months and were dismissed when the work was slack. What this fact hides is that the work being carried out — washing and drying — was essential to the production process, and was perennial, i.e. it carried on throughout the year. Yet, few of the workers were direct employees of Virgo, and none we met had any proof of employment from the factory. Only some of the workers had provident fund facilities and only seventeen out of thirty-five were covered under ESI, despite the relevant laws specifying that all factory workers, whether contract or permanent, are entitled to PF and ESI.

The daily attendance register revealed that the workers were required to report for work every day at 9 a.m. On weekdays, they were made to work either until 9 p.m., i.e. for over eleven working hours, or until 2 a.m., i.e. for seventeen hours a day. These workers stay in one-room tenements in villages in Zamrudpur, Jaitpur, Tughlaqabad and in Okhla Phase I, two or three workers to a room. On days that they worked until 2 a.m., — and since this city has no public transport worth the name during the night-time — four or five workers (who stay in Zamrudpur) would share an auto for twenty rupees. They would reach home for about four or five hours sleep, and back to work the next day by nine a.m. Others who lived elsewhere walked home after 2 p.m., slept for a few hours, and also reached work again within seven hours. Day after day without any weekly off, since they were made to work even on Sundays, until 7 p.m. Thus they were made to work for as many as 90 hours a week on average, whereas section 54 of the Factories Act states that no worker should be made to work for more than 48 hours in a week. Being made to work overtime like this on a regular basis is in itself illegal. On top of that, they were paid only single overtime whereas they ought to be paid double overtime for anything beyond forty-eight hours. All this for a wage which was well below the minimum wage of Rs 2,641 stipulated by the Delhi government (for a semi-skilled worker). Among the contract workers the wages varied sharply. Newly hired workers received Rs 1,500 a month and another

thousand rupees as overtime. The more experienced hands got up to Rs 2,200 a month. Including overtime, their monthly wage worked out to Rs 3,200 to Rs 3,400.

The link between profits and work conditions at Virgo have another dimension that directly affects working lives — the lack of safety. Any workplace that uses solvents needs ample working space for the workers, wide windows and doors, an adequate number of gas fans, and special lighting facilities that would prevent a spark from igniting any fumes. None of these precautions existed in Virgo Washing Co. All thirty-five workers were crowded into one half of the room since the first half of the room stocked the garments that came in and out of Sant Nagar. They were not given any face masks or proper footwear. Some said they were given gloves, but this is unconfirmed. They worked like this standing for hours on end in the midst of petrol, solvents, and fumes. In that room with poor ventilation, some spoke of the suffocation they felt by the end of the day. Most of the workers were not given any real idea, as they should be, about the exact nature of the substances used, and that its regular inhalation has negative effects on their health. In these conditions, this was an accident waiting to happen.

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The questions, then, of compensation and criminal prosecution are urgent right now, but they are only one part of the problem. The other part is how workers working in small units, which are often unlicensed, are exploited in this city. Industrial accidents happen, but the conditions in which accidents happen and their consequences derive from systemic reasons: the relentless drive to extract profits; the widespread existence of the contract labour system; the lack and difficulty of any kind of organised working mass activity under the contract system within these small enterprises; and the complicity of the labour department and other authorities.

The fire department official said that there are ten accidents every month in Okhla alone. Basically, factories that employ hazardous processes pack in a number of workers in spaces that are not made to take that number, and in conditions that are fundamentally unsafe. Workers' exploitation and lack of industrial safety is particularly acute when workers are employed on contract, as is evident in Virgo. These workers came from villages of Gaya and Mungher districts in Bihar, driven to Delhi by the lack of development and employment opportunities in those areas. The network of village contacts got them a job through Shambhu, but the informal network, the contract system and the lack of assured employment combine to prevent any attempt towards organized resistance and demands for better wages and working conditions. Even mentioning the rights of workers stipulated in the Contract Labour Act and the Factories Act—such as ESI, provident fund, and facilities such as rest-rooms in case contract workers are required to work at night, washing facilities, etc. — seem idealistic given the conditions in which contract workers are made to work in this city, it must be underlined, though, that enormous gains have been won by militant struggles of contract workers elsewhere, in cases where they are unionized and in larger numbers.

In fact, the first step of these migrant workers would be overcoming the very lack of information. No worker we met even had an idea as to who the owner of the factory was. They possessed little accurate information on such basic rights as what their minimum wage ought to be, annual leave, provident fund, etc. Working for twelve hours a day until 9 p.m. was perceived as normal. They only regarded working until 2 a.m. as overtime. And many workers we have met regard working overtime as a source of extra income, whereas they ought not to be made to work overtime at all, and ought to instead get a wage that allows a life of dignity. The difficulty and absence of union activity within small units employing contract labour is an essential part of this.

The situation is compounded by the lack of permanent employment within the factory where they are working, and the lack of assured employment elsewhere in Delhi. All these systemic factors enable the crude exploitation of these contract workers by contractors and principal employers. The very nature of the working lives of all leads to the deaths of some.

Those who have died have left behind their families in Delhi and in their villages. With the breadwinner dead, unless compensation is given to these families speedily, survival itself will become a question of struggle. For the one worker who suffered serious burn injuries and survived, Jitender, the question of ill health is a real one. And the others who have been injured also have medical expenses to bear, and no immediate source of employment.

Finally, what becomes of those twenty-three workers not injured in the accident? No washing of any garments can take place at Virgo. The entire set-up including the parent unit, Kashika, is in the process shifting, to B-9, sector 3, Noida. It is likely that the contract workers of Virgo would be disowned by their principal employers. Out of work, at least one of them was forced to look for some alternative employment, and had begun work in a showroom in Lajpat Nagar within a week after the accident. Unconfirmed reports suggested that some others have been taken to Gurgaon by Shambhu. The others may go back to their villages. But given that there was little that kept them there in the first place, they will probably disperse in this city, in the search for stray employment.

### **PUDR demands that:**

1. Immediate compensation be paid to the families of the dead.
2. One member of each family of the deceased be given employment in the parent company, Kashika, now at Noida.
3. Criminal proceedings be launched against Usha and Rathi Varadarajan, and against the contractor, Shambhu, and all three be immediately arrested.
4. The injured be paid compensation and medical expenses, and they get re-employed by the company.
5. Those workers of Virgo not injured in the accident also be employed as permanent employees at Noida.
6. The Delhi government assume responsibility for paying compensation, given the non-action of its Labour Department.