

THE STRUGGLE BY MUMBAI ASBESTOS WORKERS FOR COMPENSATION

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This paper is based on a series of meetings, interviews and visits in the city of Mumbai during the month of November 2007. We would like to extend our appreciation to the workers we met at this time who provided us with invaluable insights into the realities of working with asbestos and the suffering they have had to endure as a result of contracting incurable asbestos diseases:

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Arjun Nabaji Jadhav
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Mumbai is a multi-dimensional megalopolis. It encompasses small streets and ancient architecture, middle class suburban housing, high-rise buildings along Marine drive and the obscenely conspicuous lifestyle of the rich and famous juxtaposed with the daily grinding struggle of the organized working class and the daily battle for mere survival of the unorganized and migrant worker. Here, one can sense hope, despair, dreams, frustration, resilience and death – all at the same time.

In November 2007, we met a group of former workers from the now closed Ghatkopar plant of Hindustan Composites Ltd., which used to produce numerous asbestos-based products. In a room full of workers diagnosed with asbestosis, an incurable and debilitating disease, hearing their stories, seeing the factory compound, now locked with paths overgrown with grass and weeds, in a long line of other old and dilapidated factories, with spanking new skyscrapers and mega malls occasionally springing up from old factory sites – it was a very different Mumbai that we were seeing. As we walked around Ghatkopar and later in Lower Parel with the workers, they pointed out all the factories that had closed down – asbestos, oxygen, pharmaceutical, textile – now either rotting or being replaced by the ugly monstrosities of vulgar exhibitionism that have come to signify “development” in India.

The overall mood amongst the workers was one of betrayal. As we talked and walked around, they kept pointing to things, the brakes on the trains, the roofs on the trains and buildings we passed, pipes: all made with asbestos – all made by them. They were in one “labored” breath proud of their contribution to the “development” but in the next bemoaned their fate, obviously upset about being let down by the very society to which they had contributed so much – all of them aware of the incurable disease they carried, for which there seemed no prospect of relief or compensation from either their former employers or the State.

The objective of the meetings in Mumbai was to document the struggle of the former workers to obtain compensation for asbestosis contracted by their exposure to

asbestos fibers when working at the Hindustan Composites factory. Although there is no scientific doubt about the cause and nature of asbestosis, and the law of the land is clear about rights of workers to compensation, for the past two years the workers have been waiting for a court hearing, with their lungs slowly failing them. Most of them had worked for more than 30 years at the factory and had never been warned about the hazards of asbestos. Safety at the factory, according to them, was never given any great importance. X-rays and lung function tests were conducted routinely every year, as stipulated under Indian labor laws, but not a single worker had ever received a medical report.

This story is compelling, especially in the context of the present reticence of the government to ban domestic production of asbestos products and its opposition to the inclusion of chrysotile on the PIC list of the Rotterdam Convention (a measure aimed at discouraging the export of hazardous materials like asbestos). It encapsulates the plight of the average Indian worker, the irresponsibility of corporate India, the ineffectiveness of regulatory authorities and the inertia of redressal mechanisms.

Asbestos in any context can cause harm, but when used under the conditions described by the Hindustan Composites workers its harmful effects are enhanced.

In the following sections we would like to establish the following points regarding the working conditions and legacy of disease experienced by workers at the Hindustan Composites plant:

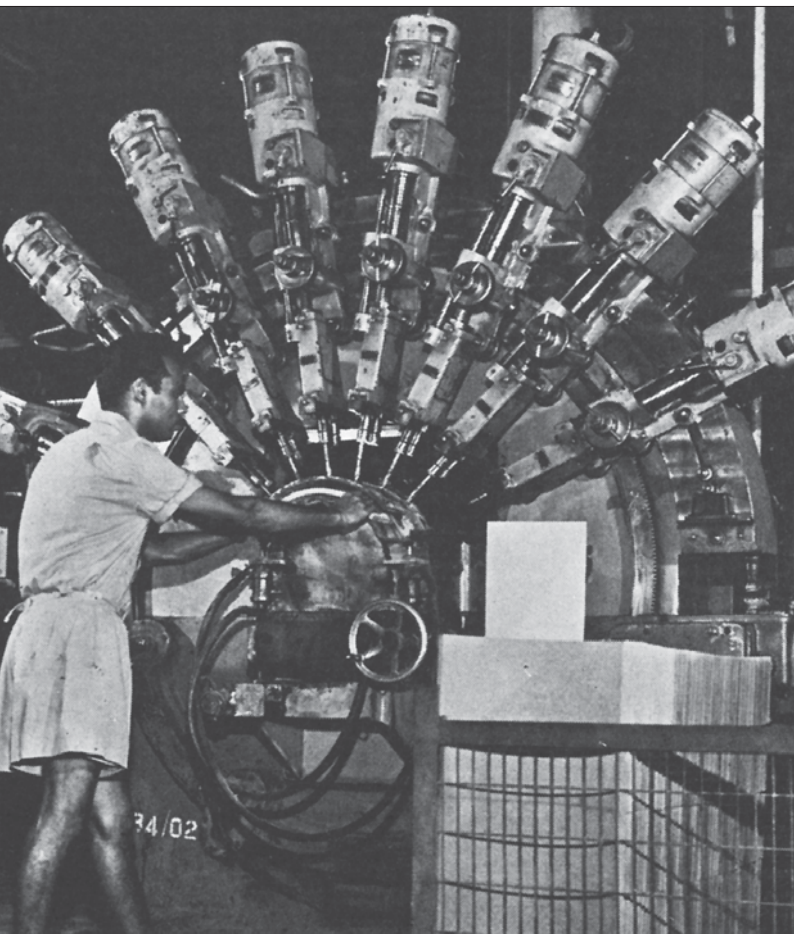
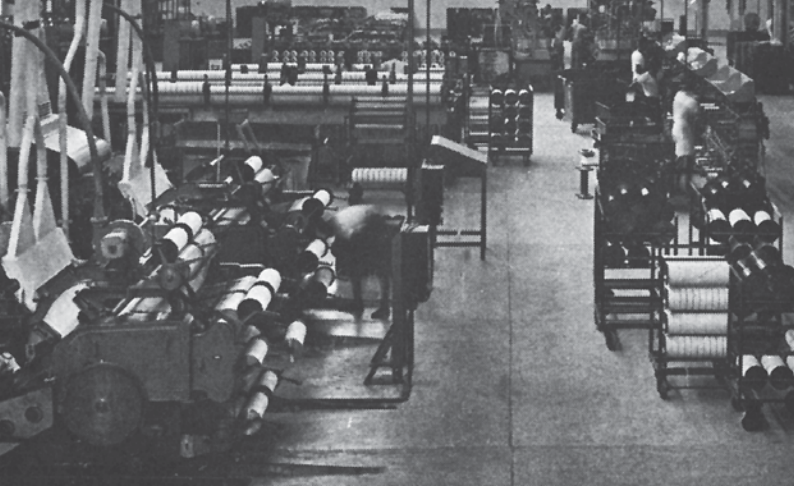
- ◆ Despite claims to the contrary, working with asbestos has resulted in significant health impacts – there were 41 confirmed cases of asbestosis from among 182 workers tested in 2004. Moreover, there is evidence of a number of cases of cancer – both confirmed and anecdotal – pointing to a huge burden of asbestos-related disease that remains to be properly documented.
- ◆ There was a total lack of adherence to safety norms at the factory. All the workers we interviewed, including some we met while walking around the vicinity of the factory, testified to the fact that they were never fully informed about the dangers of working with asbestos.
- ◆ Despite scientific clarity on the issue of causation of asbestosis as well as the law of the land being very clear as to the rights of the workers in cases of occupational injury, and despite all 41 of them getting certificates confirming a diagnosis of asbestosis from competent physicians, their attempt to assert their rights to compensation for health damages is turning into a protracted battle for justice.
- ◆ While there is some record of the permanent workers – so at least some potential to trace them – the plight of the contract laborers, used increasingly since the late



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Top: The machine-room floor at Asbestos, Magnesia & Friction Materials, Bombay.

Below: Drilling the rivet holes in a brake lining in one operation at the Ghatkopar, Bombay factory of Hindustan Ferodo.

*Turner & Newall Ltd: The first fifty years 1920-1970 (Manchester: T & N, 1970)

1980s, is shocking. Though they worked in dangerous environments similar to those experienced by the permanent workers – and many of them worked for years at the plant – they were never subjected to medical check-ups or any form of screening for asbestosis. Since there exists no record of their names or addresses, there can be no follow-up investigations. Hence we will never know the true extent of disease and disability among all those who worked in the factory.

Tracing the Corporate History

In 1949, a UK-based asbestos product giant, Turner & Newall (T&N), registered a company called Asbestos Magnesia and Friction Material (AMFM) sited in Sewri, Mumbai (then Bombay). In 1956, the company transferred to a new site in Ghatkopar in the northern part of Mumbai city, initially to produce asbestos textiles but later asbestos brake linings and other asbestos products. In 1964, the company was renamed Hindustan Ferodo, which in 1994 was to become Hindustan Composites Ltd.

Until 1994 the company remained part of the T&N group, with a large portion of shares owned by the Rasoi Group, an Indian business house headed by its chairman Raghu Mody. In 1994, the Rasoi Group bought out their British partners after a strike by workers in 1990 and arbitration over their Dearness (cost-of-living) Allowance (DA). Besides Hindustan Composites Ltd., the Rasoi Group owns Rasoi Ltd. and J.L. Morrison (India).

In addition to its first manufacturing unit in Ghatkopar, Hindustan Composites set up three more factories in Bhandara, Paithan and Jalna, all in Maharashtra, the latest in 2004. On August 2, 2006, the Ghatkopar factory was closed down after showing losses, which is denied by the ex-workers of the factory. The workers claim that production from the Ghatkopar factory has simply been shifted to the other three factories.

Hindustan Composites manufactures and supplies asbestos industrial products and friction materials to a wide range of core sector industries like the railway, engineering, mining, aerospace, steel, chemical, petrochemical, fertilizer, power generation, shipbuilding, atomic energy, electrical, oil exploration and automotive industries. According to the annual report of the company, the annual turnover increased by 8% in 2004-5 to Rs 602.5 million (US\$15.1 million) from Rs 555.9 million. In its Jalna plant, the company also manufactures asbestos-free disc brake pads and railway brake blocks.

The Ghatkopar Plant

According to the former workers, in 1978 there were about 2700 permanent workers employed in the Ghatkopar plant, which finally dwindled to 215 in 2006 at the time of its closure. From 1979 onwards, the company stopped recruiting permanent workers and instead hired contract workers on a rotational basis from time to time. At any given point of time from the early 1980s onwards there were about 150 or more contract workers in the plant. Companies normally hire contract workers, who are largely unorganized, to avoid having to provide the monetary and social benefits to which permanent workers are entitled, and to avoid li-

abilities. The Company's currently operational plants employ fewer workers than the Ghatkopar plant did when it was running.

The Company started offering a voluntary retirement scheme to permanent workers in the Ghatkopar plant from 1984-86 onwards, every two years. The permanent workers of what was then Hindustan Ferodo had the highest wages in the region until 1990. A strike called by their union at the time, the Centre for Indian Trade Union (affiliated with the Communist Party of India (Marxist)) resulted in a major loss and subsequent freezing of the workers' Dearness Allowance. Later an unjust DA scheme was worked out through arbitration, resulting in lower wages for the workers. Poor wages persisted till closure of the factory in 2006.

Knowledge about the Dangers of Asbestos

The workers we met universally reported that during their period of employment they were unaware of the dangers of asbestos. They claimed that the company never informed them explicitly of the dangers. One worker told us that it was his uncle, a teacher, who told him there was something "bad" about the factory and that he should be careful about his health. Admitting that there had been posters about the "danger" of asbestos, one of the workers argued: "Even if we did know about some of the dangers, we had no other option. This generation is not so educated that we could find other jobs, due to necessity we had to continue working, regardless of danger." Another worker said: "We knew something was wrong with asbestos, but nothing was clear and definite." In a tongue-in-cheek remark one of the workers offered: "Yes there were boards saying asbestos is dangerous, aren't there warnings even on cigarette packets, does it stop anybody?"

There may have been warnings about the dangers of asbestos on the bags or bales of raw asbestos coming from other countries, but as one worker explained: "the packing was in English, so no one could understand it". Even the doctor who gave them yearly check-ups would never tell them anything about asbestos or its dangers. When asked about the reason for the check-ups, or when patients started developing breathlessness and chest pain, the standard reply of the doctor would be: "Kuchh nahi hai" ("there is nothing").

Working Conditions

During the interviews and group discussion the workers gave detailed descriptions of their working conditions in the different sections of the factory. They also described the processes that were involved in the production of asbestos. The processes described were in the CAF (compressed asbestos fiber), textile (including carding, framing, plaiting and weaving) and BCL (brake and clutch lining) sections.

According to the workers, the most important sources of health problems were:

- ◆ The fine dust that was all pervasive in many areas.
- ◆ The 'compo' (a word they used for the varnish-solvent mixture used during some of the processes).
- ◆ Fire injuries, especially in the ovens and the "calendar" section.

Fine dust

The workers reported that there was always a "mist like cloud" of asbestos in working areas. They described the introduction of machines to suck out the dust at source, and the introduction of water during the weaving process. While these measures did reduce the amount of dust, there was still a fine mist present, especially in the areas where the asbestos was ground and cut. According to one of the workers, the suction machines produced 14-16 sacks of dust per shift (8 hrs). However, the workers estimated that this was only 60 to 70% of the total dust produced – the rest escaped the suction machines.

"Compo"

Many of the workers interviewed complained of "compo," a mixture of solvents and varnish. Inhaling this caused problems, including a feeling of breathlessness and tightness of the chest. The workers also complained of eye problems associated with the use of "compo".

Fire

There were instances of burn injuries, mainly involving ovens in various sections and in the carding section. The provision of fire extinguishers was one of the few safety inputs the workers remembered.

Safety Precautions

Regarding the safety precautions that were implemented in the factory, all the workers interviewed said that they were given only simple cotton masks. One of the workers who worked in the 1960s said that in the early days they were given respirators. However, the workers said that wearing respirators was extremely uncomfortable, especially in the hot and humid conditions in which they worked.

Symptoms Suffered by Workers in the Factory

Workers complained about having a lot of "kuph" (cough) throughout the working period. While not all the workers experienced acute symptoms, many of them complained about developing chest pain over the years (which detailed histories indicated to be respiratory rather than cardiac in origin). Workers also reported feelings of "thakaan" (tiredness) by the middle of a shift – especially toward the second and third decade of working in the factory, and tightness of the chest.

All of them said that during the first 15 to 20 years they did not feel anything untoward. The only symptoms early on were occasional periods of extreme tiredness, where they would just need to sit down for a while to recover. All of them talked about the initial years following their first bouts of breathlessness (now attributable to asbestosis). Invariably they consulted a family physician, who would prescribe a couple of days of symptomatic treatment; in those early years the symptoms would settle down temporarily and they would get on with life, until the next bout or until anxiety over their condition worsened.

Problems After Leaving the Factory

All of the workers whom we interviewed complained of increasing breathlessness over the previous 5-7 years, around 25 years since starting work at the factory. Many of the workers interviewed said that they had been using yoga to relieve the breathlessness.



Asbestos Olympics 2008

A consistent perception of the workers was of an increased death rate among people after having worked at the plant. As one worker put it, “*company chodne ke bad marlela hein*” (after leaving the factory, people die). At one of the group discussions, union members claimed that they had heard of around 40 individuals who had died of cancer since 1966. During the interviews, each worker was asked specifically if he knew of people from the factory who had developed cancer; as a result we were able to collect details of five former workers who had been diagnosed with cancer. Of course there would need to be a more detailed epidemiological study to estimate the exact cancer risk, but the perception was one of a high incidence of disease.

The death rate seemed to be high among all cohorts of workers who worked in the factory. When obtaining oral histories from the workers, mostly in their mid to late fifties, we asked:

“How many workers joined the factory with you in your section / worked in your section when you joined? Of them how many are alive today?”

The answers were very interesting, with most of the workers reporting at least 4-5 deaths among their batch of around 40 coworkers: nearly 100 per 1000 across all the cohorts. In a couple of instances slightly older workers talked of only 4 or 5 surviving in their cohort. While these are definitely very approximate figures, they are reflective of a situation that warrants urgent investigation.

Health Check-ups: A Mockery!

The workers we met consistently reported that although chest X-rays and medical examinations were performed every year, they were never told of the significance of these procedures or given the results. They told us that in the early days (1960s and 1970s) chest X-rays were done even every six months and for every one without fail, but as time went by, especially after the 1990s, the whole system became haphazard; if you were not present on the given day you might go without an X-ray for the entire year. It seems that the company was providing the X-ray facility to satisfy bureaucratic demands – not out of any genuine concern for the workers’ health.

One of the former workers said: "When I developed symptoms such as chest pain that used to come over the bases of my lungs, I went first to my family doctor who gave me symptomatic treatment. When I reported it to the company doctor he just dismissed it as nothing serious." A few workers did undergo diagnosis and some investigations at the Indian Institute of Technology in Mumbai (IIT- Powai), and the KEM hospital, but only a few patients went for the tests, and none of the other workers knew what significance the tests had or of any outcomes.

The workers reported that the company stopped the routine check-ups around 2003; the only check-up after that was arranged by the workers' union (as discussed below) and conducted by a team from the OHSC (Occupational Health and Safety Centre, Mumbai) in 2004. Thus the company did not provide any routine check-ups between 2003 and 2006, when the factory closed down.

The Regulatory Bodies

The workers were very dismissive of the regulatory authorities. They said that the authorities were totally in the camp of the company owners. Whenever the Factories Inspector was scheduled to come the whole factory would be cleaned up and masks distributed to everybody. However, in the words of one of the workers, "he would come outside the factory, take money outside itself and leave." Another worker recollected how when they came with a device to test the air concentration of asbestos – "they would perform the sampling at the canteen and main gate."

Attitude of the Company toward Compensation

The company's attitude toward compensation is reflected in the response of one of the workers who retired in 1998/9 and who subsequently developed throat cancer. This was diagnosed at the Tata Memorial Hospital. The doctor apparently asked him where he had worked. The patient told him that he had worked in an asbestos factory. The doctor then told him that that explained the cancer, and was prepared to give him a certificate stating as much so he could claim compensation. However, the retired worker declined the offer, saying that he "knew the company", and that a certificate would be of no use.

Even after the check-ups and diagnoses done by the OHSC, the company continued to deny the presence of any occupational disease in the workers; despite the fact that the OHSC team used standard diagnostic guidelines.

Liability

From November 8-12, 2004, members the Krantikari Kamgar Union (the union of the Hindustan Composites workers), encamped themselves outside the Ghatkopar plant and with the help of volunteers from the Occupational Health and Safety Centre, Mumbai conducted a medical survey.

Of the 232 workers in the factory, 181 participated in the survey – of these, 23% were diagnosed with asbestosis; all had worked at least 20 years at the plant.

Radiology showed that the majority of those diagnosed with asbestosis (83%) had parenchymal asbestosis alone

while 7% had "pleural asbestosis" (pleural thickening) alone. An additional 10% had both forms of the disease. Most of those with pleural disease complained of chest pain, while the majority with parenchymal asbestosis did not. Of course, in the case of diseases resulting from asbestos exposure, there is always the worry that chest pain may indicate malignancy and in fact two cases of pulmonary/pleural tumors were found among the workers tested.

In a paper based on the above survey* the authors express surprise at the "low" prevalence rate of asbestosis (23%) found in the workers examined: "Many studies reported a prevalence of above 70% among workers exposed to asbestos for more than 20 years." The authors explained the discrepancy as partly due to the fact that many affected workers would have been "forced to leave the company or to take voluntary retirement." Since these workers, particularly those who had been casually employed and likely to have done the most dangerous jobs, were largely untraceable or might have died, no figure for the true incidence of asbestosis at the plant could be obtained. An additional factor was that casual workers employed at the time of the survey would have been likely to risk losing their jobs, upon which their precarious livelihoods depended, by submitting themselves for testing. The shocking figure of 23% actually resulted from testing the "healthiest" workers.

After the survey, and with a list of 41 workers diagnosed with asbestosis, the Union approached the management of the company to demand compensation – first through verbal communications and then through letters dated December 8 and December 12, 2004. In a letter from Mr. Rajesh Tiwari, Works Manager, Hindustan Composites Limited, Ghatkopar plant to General Secretary, Krantikari Kamgar Union, dated December 17, 2004, the company responded:

"...the conclusions drawn by you, that workmen listed are affected by asbestosis are far fetched, not supported by sound medical inferences and are with certain motives.

...the company is following all the statutory regulation with regards to Health and Safety of the employees. The Company also follows the international norms as laid down by the Asbestos Information Centre, New Delhi, which are specific to our type of Industry. The company has qualified Medical Practitioners for regular health check-ups and maintains the records as per the rules and regulations laid down by the Directorate of Industrial Safety & Health."[†]

After failed attempts to get a positive response from the management, 36 workers diagnosed with asbestosis (out of the original 41) filed for compensation, under the Workmen's Compensation Act for health damages, before the Maharashtra Commissioner for Workmen's Compensation in December 2005. The total claimed was Rs4,453,127 (US\$111,328), with individual claims ranging from Rs33,391 (US\$834) to Rs316,680 (US\$7917) calculated on degrees of impairment as prescribed under Workmen's Compensation rules. The woefully small amount claimable is yet another injustice that has to be endured by workers incapacitated or facing an early death due to the criminal negligence of a company driven by profit making.

* Murlidhar V, Kanhere V. Asbestosis in an asbestos composite mill at Mumbai: A prevalence study. *Environ Health*. 2005; 4: 24. Online: <http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1289287>

[†] It is pertinent to recall, that in a BBC radio programme broadcast on October 14, 1993, Dr. James Allerdice, Turner & Newall's group medical officer, had said that the company could have done more to protect its overseas employees. He regretted that workers in India and Africa had died from asbestos-related diseases when knowledge and techniques were available which could have prevented these fatalities. Further, the BBC reporter, while researching the story, had witnessed horrendous asbestos exposures at T&N's subsidiary Hindustan Ferro Ltd. (Bombay), where primitive and dangerous conditions still existed (see: Kazan-Allen L. Asbestosis in India. *International Ban Asbestos Secretariat*. (2005) Online: http://ibasecretariat.org/ka_asb_india_11_05.php).

Response of the Judiciary

It is a disgrace that, in two years, only one worker, from the group that filed in December 2005, has been able to present his case to the Workmen's Compensation Commissioner – on June 13, 2007. The worker involved, Shri Ravindra Ganpat Mohite, is 50% incapacitated and is claiming Rs179,604 (US\$4490) compensation. Regrettably, the company lawyers have been successful in having the case adjourned at every hearing, and since September 2007, the post of "Compensation Commissioner" in the Workmen's Compensation court has been vacant. While the judiciary drags its feet over their cases the asbestos-injured workers are getting sicker and sicker by the day.

Conclusions

The 41 confirmed cases of asbestosis among the 182 workers evaluated by the OHSC team probably represent the tip of an iceberg. There were 2700 permanent workers originally working at the factory and who knows how many hundreds of contract workers employed there over the years. Our interviews with former workers revealed their impression that many workers died shortly after ceasing work at the plant, and certainly some of these died of malignant diseases. With no way of tracing ex-employees the scale of the tragedy cannot be accurately assessed, but

anecdotal evidence paints a grim picture – of a disaster in occupational health likely to be repeated at asbestos plants throughout India.

What is certain is that:

- ◆ Prolonged exposure to asbestos fibers at the levels experienced in Indian asbestos plants causes asbestosis; occasional exposure to far lower levels can cause the rapidly fatal malignancies: mesothelioma and asbestos-induced lung cancer.
- ◆ The management of the Ghatkopar factory was willfully negligent in the provision of a safe working environment – there were poor safety measures, no specific hazard briefings, totally inadequate protective equipment, poor control of dust levels, even allowing for the ridiculously high levels allowed by law in India.
- ◆ The management's failure to release the results of medical check-ups on their workers verges on the criminal, given that many of the X-rays so obtained would have revealed occupationally-caused disease.
- ◆ Regulatory bodies have been ineffective in ensuring safe working conditions for workers.
- ◆ Judicial processes are currently taking an inordinately long time.
- ◆ Levels of Workmen's Compensation are far too low in the context of a thriving national economy.