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Baldia town factory inferno: justice delayed and denied

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DELAYED AND DENIED

This Research report is submitted to the Faculty of Business Administration as partial fulfillment of Masters of Science in Journalism degree

by

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Fall Semester 2020

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Abstract

The Baldia Town Factory Fire — as it came to be known — was one of the deadliest incidents in the history of Pakistan — the 9/11 of the country.

Over 260 ill-fated people lost their lives in the garments factory named Ali Enterprises, 16 of whom were charred beyond recognition. In September this year, finally after eight years, the anti-terrorism court announced its verdict (ANTI-TERRORISM COURT, 2017). Two key culprits were sentenced to death and four handed life imprisonment. According to the joint investigation team’s report, the factory was set on fire deliberately by the facilitators of a political party when the owners refused to pay extortion money.

The judgement, though delayed and delivered after many twists and turns, left many questions unanswered. Why were the factory doors closed? Why were so many people who died so young when their relatives claim they were working there for years? Why had the owners not informed the security agencies about the threats? Why the workers and factory itself were not registered with the relevant departments?

The judgement did not shed light on these and many other questions that have left a gaping hole in the minds of the victims who survived and the families of those who perished.

This project will focus on the questions mentioned above and also seek the answers. It will also focus on the labor laws and the implementation of these laws in Pakistan. More importantly, it will probe reasons for the deliberate negligence of the concerned authorities and departments and hopefully shed light on the systemic injustice, incompetence and apathy that led to the incident and its aftermath.

Baldia Town factory inferno: justice delayed and denied



When Hanif heard a blast and felt the building of Ali Enterprises, a garments factory in Karachi's S.I.T.E Industrial Area, tremble on September 11, 2012, the then 20-year-old worker thought it was just another tyre blast in one of the machines and the situation would normalise soon enough.

Such incidents were not uncommon at his workplace. A fire had erupted there around six months ago, reportedly, because of a short circuit and none of the fire extinguishers were in working condition at the time. The workers had managed to escape the impending disaster in time and they would now too, Hanif believed.

With these thoughts running through his mind, Hanif failed to take notice of the panic building around him until he saw smoke rising from seemingly everywhere.

He was on the factory's mezzanine floor and all he could see was grey clouds coming in from the windows — openings he initially mulled to use as escape routes. But the thought was fleeting as he realised that the windows were sealed shut with robust steel grills.

The next thought was to leap towards the staircase leading to the upper floors. As he reached it, running through the tumult and roaring flames, bumping against sweaty bodies, his hopes plunged further when he realised that the door at the end of the staircase was bolted shut. As he moved towards the elevator, he was horrified to see the fire had engulfed another escape route. He could still hear the grinding hum of the machines — those that were still running amid shrieks of dying souls and cries for help from men, women and even children.

The din only added to his panic, and so did the realisation that the factory's main gates were locked. They were always locked — the gatekeepers having been instructed not to let labourers out during work hours — which regularly extended way beyond normal work hours on most days. Later, he would come to know that his fears had come true — the gates remained closed while an inferno claimed the lives of over 260 of his colleagues inside the building.

By this time, Hanif was overwhelmed by the pungent smell of burning flesh. The foul odour and the smoke had made breathing difficult. No help had arrived yet it appeared and fire extinguishers, perpetually out of order, wouldn't be of any help.

As he prepared himself for the inevitable, someone pushed him — towards what, Hanif didn't realise immediately. The voice was familiar. It was one of his friends from work. But who? He couldn't recall. He kept pointing in a certain direction but all Hanif could see was smoke before he eventually realised there was an exhaust fan up on the wall. They were around 10 men who had finally found an escape, and the successive events now seem unreal to Hanif. He had managed to step on to the shoulder of another man and broke the exhaust fan. Then all of them jumped outside, one after another. Hanif was the last to take the plunge and the fall was as fearsome as it was liberating.

It was any time now. He would hit the ground and the pain would be excruciating. Hanif braced himself for the suffering, continuing to fall into the depths of darkness. Something was strange though. Why wasn't he on the ground already? It felt like he was going down an abyss. What was even stranger was that he could still hear cries for help — 'save him, he is burning' and 'hold him, hold him'. But hadn't they escaped? Then why did the voices continue to grow louder?

When he would wake up from the slumber, his wife, Ameena, would tell him that the shouts were coming from him.

He had again relived the nightmare of the inferno, dubbed and immortalized in conscientious memory by the media as the ‘Baldia factory fire’.

“These nightmares are a usual occurrence, along with panic attacks and seizures, even after eight years of the incident,” said Ameena. “And most times I have to rush him to the hospital where they administer anesthesia to him.”

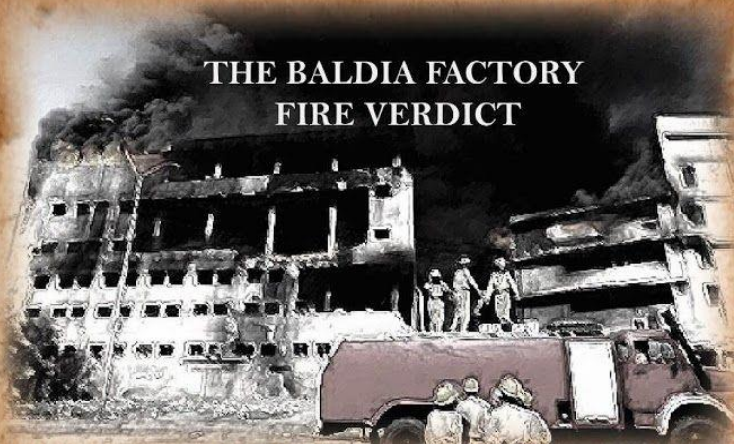
Her remarks came a month after an anti-terrorism court had finally announced the verdict of the arson case and eight years since Hanif witnessed the carnage and had been living with its haunting memories.

A lacking verdict?

On September 23, 2020, an Anti-Terrorism Court convicted eight persons, issuing a 146-page detailed verdict. Among the convicts, two Muttahida Qaumi Movement workers, Mohammad Zubair alias Charya and Abdul Rehman Bhola, were meted out death sentences for setting the factory on fire.

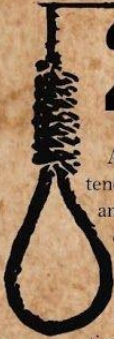
The other four found guilty were the gatekeepers — Shahrukh, Fazal Ahmed, Arshad Mehmood and Ali Mohammad — who hadn’t opened the building’s main gates at the time of incident, as a result of which 264 workers trapped inside were burnt to death and several others were injured. Each of them was handed a life sentence and fined. Additionally — and ironically — the four security guards who would have hardly made minimum wage, were ordered to pay Rs27, 77,353 as Diyat [blood money] to each of the victims’ families.

THE BALDIA FACTORY FIRE VERDICT




Over 260 killed, 60 injured

2 HANDED DEATH SENTENCE



An anti-terrorism court sentenced Abdul Rehman alias Bhola and Zubair Ilyas alias Chariya to death eight years after the Baldia factory fire incident. Bhola was the MQM sector in-charge for Baldia Town at the time of the incident and was found guilty of providing the chemical used for setting the factory ablaze to Chariya, an MQM worker.

4 GIVEN LIFE TERM



The court sentenced four gatekeepers of the factory, Shah-rukhh Latif, Fazal Ahmed, Arshad Mehmood, Ali Muhammad, were to life imprisonment for closing the exits, facilitating the carnage.

WERE THE OWNERS HELD ACCOUNTABLE?

Initially, the owners of Ali Enterprises- Abdul Aziz Bhaila and his two sons, Arshad Bhaila and Shahid Bhaila- were indicted for their alleged negligence. However, the case took a new turn when a JIT report submitted by the Rangers to court revealed that the factory was set ablaze after the owners failed to pay Rs250m 'protection money'. Yet, the court included the owners as accused in the case, observing that they had ordered the closure of exits. However, it later partly recalled the order after the prosecution said the owners were key witnesses.

2 DECLARED ABSCONDERS

The court issued permanent non-bailable arrest warrants for two absconders – Hammad Siddiqui and Ali Hassan Qadri. Siddiqui, the former MQM Karachi Tanzeemi Committee in-charge, is accused of demanding extortion from the factory's owners and planning the arson. Qadri, a Hyderabad-based businessman, is one of the four persons who received a sum from the factory's owners on the pretext of compensation for victims. However, the money was used to buy a plot in the Hyderabad.

4 ACQUITTED

The court acquitted MQM leader Rauf Siddiqui, who was serving as the Sindh minister for commerce and industries at the time of the incident. A JIT has found that Siddiqui had pressured police into booking the factory's owners in a case registered for fire incident. The court also acquitted Umar Hassan, Dr Abdul Sattar Khan and Iqbal Adeeb Khanum. Hassan, Dr Sattar and Khanum were among the four accused of misusing money taken from the owners on account of paying compensation to the victims.

“What the court overlooked was the gross violation of labour laws and rights. Neither did it implicate the relevant [government] departments, nor the factory’s owners,” commented Human Rights Commission of Pakistan (HRCP) co-chairperson Asad Butt. “Wasn’t it the owners’ responsibility to ensure the workers’ safety? Did anyone ask whether the laborers at the factory were skilled, registered with the Labour Department or underage?”

He goes as far as to term the verdict “political, against humanity, strange and unbelievable,” shifting the responsibility of the offence from the convicted gatekeepers to the employers. “They [the gatekeepers] were mere employees. If they are instructed not to let people out of the factory, of course they will not,” he remarks.

Similarly, the Pakistan Institute of Labour Education and Research (PILER) executive director Karamat Ali points out, “[So many] people died because there weren’t even basic safety measures. The workers were not registered with the Labour Department, and neither was the company, which wasn’t ever inspected.” He adds, “Wasn’t it the state’s responsibility to raise questions over the deaths of innocent people?”

According to Ali, fires can break out in manufacturing units for numerous reasons. But what is of significance is whether the owners and the management have taken the necessary steps to deal with such untoward incidents.

“Do they train their employees to use [fire extinguishing] equipment?” he questions. Do they even have adequate safety equipment and protocols in place?

Who are the real culprits?

During the initial period of the trial, two cases filed by non-governmental organisations, including PILER, did broach the subject of labour rights violations — albeit on a limited scale — and sought labour reforms.

Alongside, a criminal case was filed against the owners of Ali Enterprises, Abdul Aziz Bhaila and his two sons, Rashid Aziz and Shahid Aziz, under Section 302 of the Pakistan Penal Code, pertaining to murder, while government officials were charged with criminal negligence. The charges against both parties were affirmed in initial investigation reports prepared by an investigation committee of the police, the Federal Investigation Agency (FIA) and a judicial tribunal.

Later, however, the focus of the trial was entirely shifted to what author *Laurent Gayer* describes in his book *'The Wild East'* as the “politicization of the trial”.



“Jiya Altaf” written on the main entrance of the Ali Enterprises. Altaf Hussain was the leader of MQM at the time of the incident. The main culprits of the Baldia factory inferno were affiliated to the MQM.

Gayer’s description is concurred by the legal counsel of petitioners demanding compensation on behalf of the victims’ families, Faisal Siddiqui. The latter believes the shift in focus of the investigation was to “serve the interest of the capitalist class.”

Testimonies were withdrawn and changed, allegedly after witnesses were threatened, to relieve the owners of the onus. Subsequently, new charge sheets were prepared, withdrawing the murder charge and replacing it with involuntary homicide.

In *'The Wild East'*, Gayer (Gayer, 2019) explains this as:

“Because of the sheer scale of the disaster, as well as how poorly it had been managed, the Baldia factory fire case brought the city’s ‘ordered disorder’ under the microscope. And while doubts persisted about the exact origin of the fire – largely because of the lack of resources of the investigators, as they themselves admitted – what is commonly referred to in Pakistan as the bari

sarkar ('deep state' – namely the army and its intelligence agencies) invited itself to the bar and gave a new political twist to the case. On the basis of the alleged confessions of a suspected hit man, the paramilitary Rangers succeeded in reorienting the trial against the party dominating Karachi's political life, the Muttahida Qaumi Movement (MQM), which was accused of having set the factory on fire as part of a racket deal [after the owners refused to pay extortion]."

On December 2, 2016, around 40 commandos raided a five-star hotel "Royal Garden Home" in Soi Nana, Bangkok to arrest Rehman Bhola. Bhola was one of the three main accused in the Baldia factory fire case. This case took a dramatic turn in 2015 when Rangers submitted a JIT report in the Sindh High Court, accusing the MQM for the Baldia factory blaze (Joint investigation Team, 2015).

The report claimed that a suspect named Rizwan Qureshi, allegedly affiliated with the MQM, had admitted during interrogation for a different criminal case, that the political party was involved in the factory inferno case. Qureshi was arrested from Karachi in 2013. According to the report, Qureshi confessed that the party's workers had set the factory on fire over refusal to pay [extortion] money. Qureshi named Rehman Bhola and Ilyas Chariya as the "frontmen" of the arson attack on the factory.

A JIT was formed to "re-investigate" the case. From this point onwards, the Ali Enterprises case took a completely different direction and the labour rights violations in the factory were overshadowed by the political wrangling.

According to Miriam Saage-Maass, vice legal director of the European Center for Constitutional and Human Rights, "the case ended on a weak factual basis, unfortunately."

Saage-Maass, who was part of civil proceedings against German retailer KiK with regards to labour exploitation in South Asia, added that "the court overlooked the responsibility of the factory owners, government departments and even the international buyers [the German brand, KiK, the company used to manufacture garments for] and the auditing companies. Even if we agree that it was an arson attack, had the building been in better shape, there wouldn't have been that many casualties."

Fortunately, the victims were able to secure compensation from the German brand. KiK was not willing to pay any amount based on principles of the International Labour Organisation [ILO Convention 121 concerning benefits in the case of employment injury]. The company was

reluctant to admit its negligence or liability regarding workers' safety at the manufacturing unit largely producing goods for them.

In 2015, the Ali Enterprises Factory Fire Affectees Association (AEFFAA —, an independent body formulated by the victims' families and survivors of Ali Enterprises nominated four people amongst them to file a civil suit against the KiK at the Regional Court in Dortmund, Germany. They won the case in Germany by applying the laws of their home country [Pakistan] according to the Rome II regulation that deals with cross-border litigation.

Members of AEFFAA claim, however, that they are still denied justice even after the verdict was announced [in Pakistan]. The irony is that while they were able to hold the German buyer responsible for the catastrophe in a German court, in accordance with Pakistani law, they have been unable to do the same in their home country.

The aforementioned contentions and questions present the Baldia factory fire case as a case study of widespread labour law violations in Pakistan and systemic failure — largely overlooked in the verdict and elaborated below.

No registration, no inspection;

According to Siddiqui, the lawyer representing the victims' families, “The bombshell dropped in this case was the disclosure by the Labour Department that the Ali Enterprises factory, which employed more than 1500 workers and was a major exporter of textile goods, had not even been registered with the Labour Department.”

Since it was never registered, it was never subjected to any labour or safety inspection by the Labour Department and this was the legal defence taken by the Labour Department, explains Siddiqui.

“The state's defence in this tragedy can be captured by the motto ‘see no evil’ i.e. no registration and thus, no statutory obligation to regulate, and resultantly, ‘cannot prevent any evil’ i.e. no responsibility could be assigned for this industrial tragedy on the Labour Department. This was further affirmed in a HRCP report, which cited the findings of a tribunal appointed by the government to investigate the causes of the fire.

As per the report dated September 2014, neither was the factory registered with the Labour Department, as made mandatory under the Factories Act 1934 (Government of Pakistan, 1934),

nor with the Civil Defence Authority, responsible for ensuring the implementation of occupational safety measures.

Consequently, “the officials of the Civil Defence Authority claimed that they had not visited that particular factory [for inspection] because it was not registered with the Labour Department. Taking advantage of this situation, the Bhailas had not even installed the most basic emergency facilities,” writes Gayer.



Ali Enterprises inferno is considered as one of the deadliest fire incident in the history of industrial accidents. (Photo credits: AFP)

Hence, even when the claim of the factory, in fact, having been registered, made by Rangers prosecutor in the case, Sajid Mehboob Sheikh, spares the owners the penalty of Rs50,000, the admission of the relevant department of not having conducted any inspection of the unit still holds them party to another violation.

Ali, who cites the Factories Act 1934 to explain that at least one inspection of every unit is mandatory annually, holds both the government and the owners of Ali Enterprises responsible for the violation.

Moreover, according to the HRCP report, documents shared by the Sindh Building Control Authority allege that the owners did not allow the authority's inspector to conduct an inspection of the unit in 2005.

Following this, says Siddiqui, the Labour Department did initiate a case against the owners under the Factory Act, 1934, and its subordinate Sindh Factories Rules, 1975, but they were charged for an offence under Section 64 (penalty for failure to give notice of accidents) of the Factories Act, which imposed a penalty of Rs500.

He derides the penance as “an insignificant and laughable penalty for [one of] the biggest death toll in a factory fire in human history.”

Further pointing out faults in the law back then, he says, “In fact, there were no provisions in the labour laws which contained any substantial and deterrent punishment, under which the factory owners could be charged with. In short, the Labour Department was helpless not only due to their collusive behaviour but also because the labour laws under which they operated were toothless even in the face of such grave industrial tragedies.”

This reflects the weakened inspection system in Pakistan;

According to a former official of the Labour Department, who has requested anonymity to speak freely for the purpose of this report, data from July reveals that there are just approximately 120 labour inspectors for around 10,000 factories, comprising a registered workforce of about 500,000 individuals, in Sindh.

What this clearly shows is the need for a strong, state-run labour inspection system, according to Saage-Maass. “This means we need more resources for the labour inspection department, the staff of which should be well equipped and well paid, so they are not easily corrupted,” she adds.

Furthermore, Siddiqui ascribes the weakened labour inspection system to another factor — the ban on surprise inspections.

Explaining the rationale behind the decision implemented since 2001 in Sindh, the former labour department official says this is to prevent unauthorised entries at workplaces and ensure the presence of the top management at the time of visits by inspectors. But, he adds, the ban is also in violation of the conventions of the International Labour Organisation (ILO).

To improve labour inspection across the country, the federal government, Employers' Federation of Pakistan and Pakistan Workers Federation had signed an agreement under the ILO-Pakistan's Decent Work Country Programme just days after the Baldia fire incident, on September 20, 2011. In the agreement, it was affirmed that in the next 6 years, provincial governments shall be provided necessary financial and technological assistance to improve their labor inspection mechanism.

Later, in a plea filed in connection with the Baldia factory fire case and seeking the large-scale registration and inspection of factories and establishments in Sindh, the Sindh High Court had directed the registration and inspection of all the factories and establishments in the province and ordered the submission of a compliance report to the court regarding this issue.

The Labour Department had submitted a report in 2012, stating that 813 new factories and establishments had been registered, 180 inspections had been carried out and the authorities had initiated action against 75 factories.

“But these measures make little difference when your entire system is corrupt,” says former labour department former joint director Gulfam Nabi Memon. “Bribes are rampant and so is nepotism, on every level. To save more money, businessmen don't mind giving smaller amounts as bribes to officials and that is how the entire system has been running.”

Mirroring these views, Nasir Mansoor of the Labour Union Federation alleges that factory owners find a way around the legal bindings and pay bribes to labour inspectors, violating labour rights and laws.

“They go as far as instructing their workers to lie about their wages and working conditions to the inspectors—in most cases, making threats of termination,” he says.

This is precisely why there has been little change and till date, the work environment is the same as it has been for years, says Butt.

“Court should have questioned the parties on this. And what has the Labour Department been doing? Are we waiting for another Baldia fire?” he questions rhetorically.

The crumbling condition of the labor inspection system can be termed as the root cause of other menaces that remain uncovered in the court's verdict of the case—namely, the ineptness of private auditing mechanisms, non-implementation of occupational safety measures and violation of building regulations, among others.

Faulty audits;

In the absence of inspections by relevant government departments, the vacuum created is filled by private social auditors. However, the Baldia fire incident laid bare the shortcomings of this alternative, which manufacturers voluntarily opt for to get validation.

According to Saage-Maass, the Baldia fire incident is a classic example of how the private social auditing system does not work.

“The main buyer, German group KiK, had issued three certificates to the factory and fire safety hazards were not detected in any of the certificates,” she says, adding that Italian inspection company RINA, too, had issued an SA8000 certificate of social accountability just weeks before the deadly fire broke out.

More precisely, it was on August 3, 2012 — 39 days before the fire incident — that RINA Services S.p.A. had issued a certificate attesting that Ali Enterprises was in compliance with the SA8000 standard, based on an audit and inspection conducted by its Pakistan affiliate, Regional Inspection and Certification Agency (Pvt.) Limited.

The latter falsely certified that among other things, health and safety procedures were complied with by the factory, according to Siddiqui.

“The audit report of the factory falsely stated that fire extinguishers and fire safety buckets were available, accessible exit doors were kept unlocked and there were regular emergency drills and firefighting training conducted at the factory,” he says.



The illegally built mezzanine floor of the ill-fated Ali Enterprises

According to the reports, the company RI&CA, which was subcontracted by RINA in Pakistan was contacted after the incident. They, however, denied having conducted any inspections of the Ali Enterprises unit. Moreover, RINA had published the audit report on its website but took it off within days citing some “legal concerns.”

Additionally, this audit report which was published on the website of RINA, had some pictorial proofs of Ali Enterprises having the best safety measures — pictures that the workers say are not even of the same factory.

On the other hand, multiple investigation reports, including the one prepared by the FIA, as well as the reply of the then chief fire officer on one of the pleas, clearly pointed out the complete absence and failure of fire safety standards at the factory.

“The SA8000 certification by RINA was not simply an example of a factually incorrect report but in fact symbolizes a fraudulent system of private inspections,” opines Siddiqui.

The claim finds grounding in Hanif’s account of events, who says he began working at the factory when he was just eight years old. This is even when the Factories Act, 1934 states, “No child who has not completed his 14th year shall be allowed to work in any factory.”

“But when inspection teams visited, up until I was 16, I was made to hide under the tables or in the bathroom,” he said, adding that workers received strict instructions on how they were to behave during the visits. “They [the factory management] would give us clean clothes and masks to wear and unlock all doors and the auditors, too, would rarely inspect the building from the inside. When they did, they would not go beyond the first floor.”

While RINA has denied any responsibility and liability in connection with the Baldia factory fire incident, Siddiqui is of the view that two facts still point towards at least an implied acceptance by the auditing company of this fraudulent system.

“Firstly, these companies suspended all SA8000 certifications issued in Pakistan [after the Baldia fire incident] and secondly, both RINA and its Pakistan affiliate were disbanded in Pakistan,” he says. “However, the Labour Department demonstrated its complete helplessness since there was no law which mandated or regulated private certifications like the SA8000 nor were such certifications submitted to and vetted by any statutory authority. Resultantly, RINA and its Pakistani affiliate had not actually violated any law by giving a false report.”

According to Butt, the case exemplifies corruption on a global scale, as he accuses auditors of collecting bribes.

Mansoor describes such audits as a product of “the connivance of factories’ owners in Pakistan, international brands the latter work for and private auditors.”

“They all are aware that the certificates are a lie but there is no system to implicate them,” he laments and goes on to term the social auditing by private organizations “a fraud”. “The certificates are license to murder and kill,” he says, summarily.

According to Mansoor, the legal system needs to be strengthened to do away with the “menace, but no one is willing to work for this.”

Safety and building code violations;

A weakened inspection and legal system, faulty audits and non-implementation of laws makes it possible for businesses to circumvent the law.

In Gayer's words, "The Bhailas were not black sheep resorting to exceptionally ruthless practices: on the contrary, they were prominent and rather typical members of the local business community. Similarly, their malpractices were not exceptional, and the various legal cases opened against them revealed the banality of these illegalities and the collusion between local industrialists and public officials that made these systematic violations of labour laws and safety regulations tenable in the long run."

Consequently, multiple investigations launched into the Baldia fire incident, particularly those initiated in the early stages of the case, highlight the disregard for safety laws and building codes at the manufacturing unit. The investigations' findings note that:

Over consumption of electricity

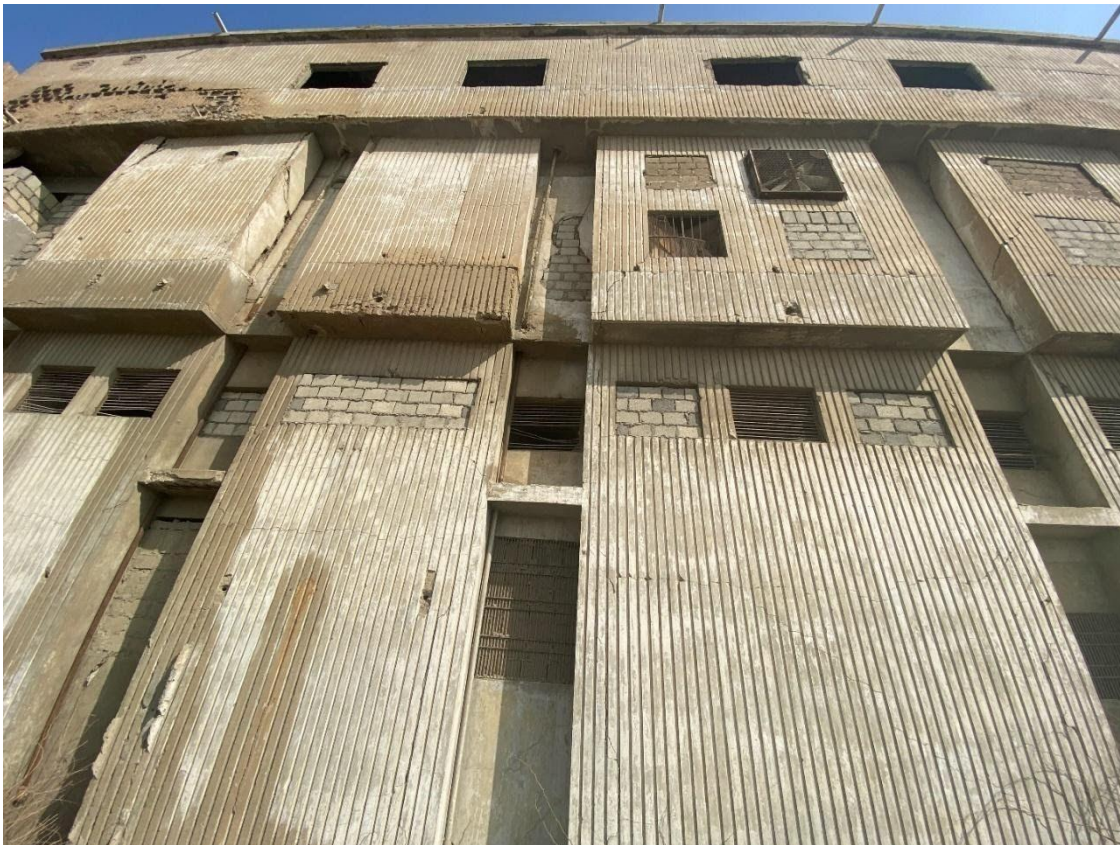
A short-circuit was the most probable cause of the fire, especially as the factory was working on overload at the time of incident, consuming 318 kilowatts as compared to the permitted 210 kilowatt by the Karachi Electric supply company. Investigations carried out at the later stages of the case ruled out this possibility, establishing that two MQM workers had set the factory on fire after its owners refused to pay them extortion. In this regard, the two investigation officers assigned to the case — Rangers prosecutor Sheikh and East district SSP Sajid Sadozai — maintain that the fire was in fact an act of arson and not an occupational hazard. Both of them back their statements on the basis of forensic experts finding traces of flammable chemicals at the factory.

Out of order equipment

Safety measures and the firefighting measures in the factory were highly inadequate. There were no smoke alarms to alert the staff, hydrants and fire extinguishers were not functional and the staff was not trained to use the equipment. Even otherwise, no attempt was made to extinguish the fire by the factory management.

Sealed doors and windows

Due to the alleged threat of workers stealing goods, two exit doors on the second floor were permanently sealed by the factory owners and management. This act proved to be fatal during the blaze as most workers were gathered on the second floor because it was payday and also once the electricity went out, it was extremely difficult for the workers to find their way in the dark.



The windows of the Baldia factory are closed with the iron rods. According to the fire safety laws mentioned in factories act 1934 sealing the openings of the rooms are prohibited.

Moreover, due to the alleged threat of theft, the windows were permanently sealed with steel grills. Thus, the workers could not even escape through the windows. Besides, three of the four gates of the factory's building were closed permanently, also to prevent pilfering. To add to it, there were no emergency exits in the factory. This discovery, though, is challenged by Rangers Prosecutor Sheikh, who questions, "If there were no exits, how did the ones who survived manage to escape death?" He claims that the large number of deaths were not a consequence of sealed entrances but the intensity of the fire. "The fire flared up immediately because it was unnatural and I have proved it in the court that the fire erupted in different locations of the factory at the same time which means it was a pre-planned sabotage attack," he said.

Surveillance over safety

The few CCTV cameras installed in the building were used for surveillance of the workers and not for safety measures. A footage surfaced of the factory CCTV camera right after the incident. The videos were of the first floor of the ill-fated factory and piles of denim can be seen on the floor which started burning immediately.

Space occupied by machinery

Machinery occupied more than the permitted space [500 cubic feet according to Sindh Occupational Health and Safety Act 2017] and it seemed the factory owners were not bothered about the provisions of law requiring at least breathing space.

These findings were reaffirmed by the HRCP, who conducted an independent probe into the incident, PILER head Ali, who closely followed the case with the PILER being a petitioner in one of the pleas pertaining to the incident. Witnesses in the case also testified, corroborating these findings. However, some of them later changed their statement, allegedly after they were pressured and intimidated into doing so.

According to Butt, the HRCP team also found that when the fire broke out, the owners' first preference was to shift the merchandise to a safer place.

These violations were in contravention of the Factories Act, 1934, the relevant provisions of which state:

- Effective and suitable measures must be taken in every factory for ensuring adequate ventilation by the circulation of air in every room.
- Arrangements should be made to ensure that adequate temperature is maintained in every room in a factory so as to make certain that employees work in a comfortable environment, are not prone to injuries and do not develop any health conditions. In this regard, the law further states that roofs and walls should be constructed using suitable material to make sure that temperature is kept as low as possible.
- Every factory shall have emergency exits to escape fires. According to the Act, if this provision is violated, the labor inspector is authorized to serve a notice to the factory's manager, ordering him to ensure the implementation of relevant safety measures before a specified date.
- No doors in a factory shall be locked or obstructed to make escape easier in case of a fire.
- Every factory must have an effective and clearly audible means of warning to inform every employee working there of a fire.
- A free passageway giving access to every means of escape should be maintained.
- In a factory where more than 10 workers are employed to work on the floor above the ground floor or in a place where flammable and explosive material is stored, the employees must be trained to escape in case of a fire and be familiarized with escape routes.

FIRE SAFETY LAWS



Every factory shall be provided with means of escape

In every factory the doors affording exit from any room shall not be locked or fastened



In every factory, every window, door or other exit affording means of escape in case of fire, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size

In every factory there shall be provided effective and clearly audible means of giving warning in case of fire to every person employed therein



DEPARTMENTS RESPONSIBLE FOR ENSURING OCCUPATIONAL SAFETY

Fire Department
Sindh Building Control Authority
Sindh Industrial Trading Estate Ltd.
Civil Defence Department
Labour Department
Sindh Environmental Protection Agency
Local Government Department
Industries Department
Health Department

None of these rules were, in fact, implemented at Ali Enterprises. Survivors recall several obstructions as they tried to escape the building when the fire erupted. “When I tried to go towards the lift, I could not proceed as the finished goods which were occupying most of the space were burning heavily near the elevator,” said Hanif.

Building code violations

Moreover, with respect to building code violations, the FIA’s report states:

“Owners of the factory committed flagrant violations of the approved building plan. The illegal wooden mezzanine floor between the ground and first floor was the main cause of aggravation of fire and its spread to upper floors. Rapid burning of the illegal mezzanine floor not only blocked the staircase but also made the fire spread quickly to the first and second floor through the duct available around the cargo lift.”

To confirm these violations, the Sindh High Court had ordered an independent inspection of the factory and unsurprisingly, multiple violations in the construction of the structure of the factory building were promptly discovered.

Besides, the HRCF team that looked into the matter found that the building was not constructed in accordance with the approved design, says Butt.

Ali Enterprises was situated in Sindh Industrial Trading Estates and hence, when the Sindh High Court questioned the Sindh Building Control Authority over the building code violations brought forth during the investigations, the authority maintained that it had no jurisdiction to check building violations in S.I.T.E and that it was actually the duty of the management of S.I.T.E to issue building plans and check violations. On the other hand, S.I.T.E Ltd, the body responsible for overseeing factory construction plans in the area claimed that it was not its responsibility to ensure that every factory complied with health and safety regulations.

Then whose duty was it? This is a question, which apart from remaining unanswered, raises another question — to what extent a systemic failure and the inefficiency of government departments played a role in making the Baldia factory fire as deadly as it turned out to be?

Systemic failure;

Around 18 departments, including the Civil Defence Department, Local Government Department, Health Department, Labour Department, S.I.T.E Association, Sindh Building Control Authority, Employers Federation of Pakistan, Pakistan Workers Federation, Fire Department and Sindh

Environmental and Protection Agency, are responsible for regulating factories and their operations in the province.

In the case of Baldia factory fire, all these departments, for various reasons including their inefficiency, lack of resources and coordination and corruption, are to be held responsible for the carnage, says Mansoor. As Gayer puts it:

“As the investigation of these cases began, various public institutions were summoned before the courts. What they revealed was a vast network of connivance between the provincial bureaucracy and local industrialists.”

The first instance of this systemic failure appeared prior to the fire eruption, with the labour department failing to carry out the necessary inspections and hence, not ensuring the implementation of safety laws and building code regulations at Ali Enterprises, both of which have already been discussed at length.

Following the inferno, another systemic failure was witnessed when fire tenders took as long as around 45 minutes to reach the site, as claimed by eyewitnesses and others following and associated with the case.



On 11th of September 2012 a factory on SITE area Karachi caught fire. The limited resources of the city helped little to control the blaze. More than 260 people were burnt alive. (Photo credits: AFP)

“For 45 minutes, the fire continued to roar unabated, claiming lives,” says Piler’s Ali emphatically, in a bid to stress the impact of the inefficiency.

The FIA investigation, as well as the probe conducted by a judicial tribunal, attribute the delay in the arrival of fire tenders to the dismal condition of roads and “pathetic traffic conditions”.

However, this claim was denied by the fire department during court proceedings.

In this regard, Gayer writes:

“The Bhailas claimed that they had informed the department right after the fire broke out, but that the fire brigade had taken an hour to reach the site; that it had not sent enough fire tenders and that it had taken excessive time to refill once the water was exhausted. The Chief Fire Officer of Karachi, defended his services, claiming that his personnel arrived at the site within 10 to 15 minutes after first receiving information about the incident. TV footage suggested that the first fire tenders reached the site less than half an hour after Lyari fire station was first informed of the

incident, thus invalidating the claim of the owners. However, it is clear that the firefighters were completely unprepared for a catastrophe of this magnitude. At first, only two fire tenders were sent to the scene and they soon ran out of water. In the next few hours, nearly all the fire vehicles available in the city were brought on site.” (Gayer, 2019)

This statement was also confirmed by the owners while they recorded their statement in court, “The honourable court can check our mobile phones that we call the fire station several times and also can be confirmed with our manager who finally rushed to bring a fire brigade on his own.”

According to Butt, he, along with a team of the HRCF, later visited the fire station nearest to the factory and found that all ground water tanks there were empty.

“The fire department officials told us that they had to go to hydrants to replenish fire tenders,” he says.

The situation, it seems, remains unchanged even after eight years of the incident.

In a recent statement given before the Sindh High Court, the city’s chief fire officer said that just 14 of the fire department’s 44 fire tenders were in working condition, while the fire helpline 16 remains dysfunctional due to technical issues.

According to Inayatullah, who has been working in the fire department for the past 31 years, “the department is breathing its last and is on the verge of collapse.”

“We have to beg to get fuel for fire trucks from the KMC,” he says, adding that the delay in the arrival of fire tenders at Ali Enterprises meant the local government is incapable of running the departments.

“The corruption in the KMC is what the delay should be attributed to,” he stresses. Despite repeated attempts to contact officials at the KMC, no one was willing to speak on the issue. Moreover, Butt and Ali also view the Bhailas being absolved of all responsibility in the case as an example of systemic corruption that continues to plague the country. (Inayatullah, 2020)

Initially accused in a criminal case with respect to the fire incident, it came as a surprise to few when the Bhailas were absolved of all responsibility and allowed it to travel abroad.

“They were granted bails and allowed to escape. It is a common occurrence here, but they were allowed to leave after over 260 deaths,” says Ali in exasperation. “That was not expected.”

And if it is to be accepted that Bhailas were in fact threatened with arson after they refused to pay extortion, it was their responsibility to inform relevant law enforcement agencies of the threats, he points out.

“They could have filed a complaint and got the relevant department to intervene,” says Butt.

“By not informing the relevant departments, they put their workers' lives at risk,” Ali pitches in.

Hence, while Mansoor calls for the prosecution of all relevant government departments and the factory owners over “criminal negligence”, Siddique describes this systemic failure as “deliberate lawlessness to serve the capitalist class.”

“In order to avoid detection and rectification of illegalities, there was a deliberate invention of legal vacuums, legal confusions and a deliberate weakening of the enforcement structures. In other words, this deliberate lawlessness and anarchy of the law was not accidental but deliberate as it served the interest of the capitalist class,” he says. “A case which began with questioning the unsafe labour practices of the Pakistani textile industry had ended with the textile factory owners and the negligent government officials being declared as victims.”

Workers’ exploitation;

This tilt of the government machinery toward favoring industrialists and businessmen leaves workers prone to exploitation, as was seen in the case of Ali Enterprises.

During court proceedings, the Sindh Employees’ Social Security Institution and Employees’ Old-Age Benefits Institution informed the court that only 200 workers of the factory, out of its total 3,000, were registered with the EOBI. Similarly, just 268 of them were registered with the SESSI. None of them was registered with the labour department.

Moreover, Butt explains, the Bhailas had recruited employees through a contractor, colloquially called a *thekedar*. These contractors provide businesses with cheap laborers, who are not entitled to social protection.

Their contracts are renewed after a specified period and they are never given the status of a permanent employee and hence, the employers do not have to spend money on providing them social security and pensions.

“In this system, the employer is not answerable for any form of exploitation or ill-treatment meted to an employee,” explains Butt. “Getting compensation in case of an accident is also difficult and the owners and the German company were only compelled to give compensation to the victims of the Baldia fire incident because the media highlighted the issue.”

Moreover, contract-based employment also keeps workers from unionising, — a constitutional right of the workers [the right of association in Factories Act 1934] And that is why the workers of Ali Enterprises had no union of their own, says Ali, adding that had they formed one, it would have been easier for them to deal with the aftermath of the inferno and not as easy for the owners to get away scot-free.

“It is the same everywhere across the country,” according to Mansoor. “Hence, workers continue to work for minimal wages and long hours, without anyone holding the employer answerable.”

And when a foreign company is involved, as was in the case of Ali Enterprises that was manufacturing garments for German KiK, it gets even more difficult to bring the retailer into the justice system, says Saage-Masse. “The law does not exactly protect the interest of workers, social and environmental rights in a situation where global markets and global trade is involved and this is why it is difficult to address the responsibility of both the company owners and the brands in global context.” (Committee on International Trade, 2017)

“Obviously the working system in Pakistan for labourers is pretty bad,” she laments.

Awaiting justice;

Hence, it comes as no surprise that while incidents like the Baldia factory fire lead to the legislation and enactment of an entire law — in this case the Sindh Occupational Safety and Health Act, 2017 — their implementation is nowhere to be seen.

Describing this manifestation of law and lawlessness, Siddiqui says, “On one hand, the Pakistani legal system displays all the manifestations of a labour market regulated by labour laws, labour inspectors, social security laws and institutions, an elaborate system of legal rights and fundamental rights including the fundamental right to trade unions and an expansive tradition of constitutional judicial review to enforce such rights. But on the other hand, equally present are the following contradictory features such as outdated labour laws without stringent penalties, the banning of surprise inspections and completely inadequate number of inspectors, the abysmal lack

of implementation of labour and social security laws, the systematic elimination of trade unions, an authoritarian state closely working with forces of capitalism and finally a judiciary which was suspicious and cautious in the enforcement of legal and fundamental rights relating to labour.”

The consequences of this unfortunate situation go way beyond physical and financial losses.

Hanif, who was passionate about dancing and always dreamt of making a career as a dancer, has been experiencing them for the past eight years. He had joined a dance troupe, won prizes in dance competitions and began training for dance at the age of 12. Before the Baldia fire incident, he had been offered to work as a background dancer in a film. That could have been his launching pad, but alas, the very plunge to save his life shattered his dream of reaching for the stars as a successful dancer.



Hanif dancing with his group days before the incident (picture taken out from a video Hanif provided)

Months after the verdict was announced, he sat beside Ameena on a rickety charpoy in a forlorn state. Looking into oblivion, he said, “I had fallen on my face after jumping from the exhaust’s opening. My muscles remained stiff for months and I couldn’t walk or bend any part of my body. Plus, I cannot move much. Otherwise, I have difficulty breathing.” (Hanif, 2020)

He went on, “And you ask me whether justice has been served, even when neither the retailer nor government institutions have been penalized. But that is inconsequential to me. How can justice ever be served when I can never dance again!”

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