

| <http://nyti.ms/1lkZKj9>

B" M # F Y [] cb

Safety Lapses and Deaths Amid a Building Boom in New York

An increase in fatalities and injuries has mostly affected undocumented immigrant laborers and far exceeds the rate of new construction.

By **DAVID W. CHEN** NOV. 26, 2015

Manuel Colorado, a 36-year-old construction worker, was installing decking last year at a new building in Williamsburg, Brooklyn, when he lost his balance and fell 19 feet to his death.

A few weeks later, a guest at the Dream Hotel in Midtown Manhattan heard someone screaming outside. Gurmeet Singh, a 58-year-old Indian immigrant doing facade work on the building, had tumbled eight stories off a scaffold and landed atop a sidewalk shed.

Twelve days after Mr. Singh's death, Lukasz Stolarski, 33, plummeted 110 feet from the roof of an office building in Midtown where he had been attaching plywood to the parapet ledge.

New York City is experiencing a building boom that has transformed barren blocks and led to a frenzy of construction on commercial and residential buildings across all five boroughs. But that activity has come at a sobering cost: In the last two years, the number of workers hurt and killed in construction accidents has surged.

The rise in deaths and injuries — mostly among undocumented

immigrant laborers — far exceeds the rate of new construction over the same period. It is stark evidence of the view increasingly held by safety inspectors, government officials and prosecutors, that safety measures at these job sites are woefully inadequate.

A review of every construction fatality in the past two years by The New York Times has found that many could have been, as a federal investigation into one accident put it, “completely avoidable.” Time and again, in thousands of pages of safety reports, handwritten notes, crude drawings, lawsuits and other documents, as well as interviews with the workers’ relatives and friends, the same issues emerged.

Most construction sites where workers died failed to take basic steps to prevent them from falling. Workers frequently did not wear harnesses or helmets, as required by law. Supervision was often lacking. In many of the projects, a premium was placed on speed, causing workers to take dangerous shortcuts.

About a quarter of the deaths took place in Midtown, attracting a vast majority of news media attention for such accidents. But the rest occurred, largely unnoticed, all over the city. They usually involved smaller projects, using nonunion workers, who were often poorly trained. Often the contractors had been previously cited for safety violations and failed to pay penalties.

Seven workers have died on the job since July, including three in a nine-day stretch before Labor Day, according to records of the federal Occupational Safety and Health Administration, or OSHA.

The city’s Buildings Department keeps its own count of construction deaths, injuries and accidents, offering a broader look at safety year over year. There were 10 construction-related fatalities in the most recent fiscal year, from July 2014 to July 2015, according to city figures. In contrast, the annual average over the previous four years was 5.5.

Meanwhile, 324 workers were injured in the last fiscal year, a jump of

53 percent, and the Buildings Department recorded 314 accidents over all, an increase of 52 percent from the year before. The total was more than two and a half times what the city tallied in 2011. In comparison, permits for new construction projects grew by only 11 percent in the last fiscal year and permits for renovation and other work by 6 percent.

“There is absolutely no doubt that there is a real problem with construction safety,” said Mark G. Peters, the commissioner of the city’s Investigation Department, which looks into construction fatalities.

An improving economy and low interest rates helped fuel the current building boom, but there are signs that more is to come. Mayor Bill de Blasio is embracing vertical construction to help make housing more affordable. And uncertainty over the future of a lucrative tax abatement program for developers caused many to rush to file new construction permits this year.

The deaths make clear that the city is being built, or in some cases rebuilt, heavily on the backs of recent immigrants, particularly from Latin America, most of them not authorized to work in this country.

Immigrants, of course, have long dominated the construction trade, from the Irish in earlier generations to Eastern Europeans more recently. But among those who have died over the past two years, many were especially vulnerable because of their legal status. They were frequently poorly trained, paid in cash and afraid of speaking up about unsafe conditions, according to records and interviews with friends and relatives. Having largely existed on society’s margins, in death, there was often little to mark that they ever lived.

Such was the story with Mr. Colorado, who arrived from Veracruz, Mexico, about 15 years ago, and is survived by his girlfriend, Haydee Vazquez, and their two sons.

Mr. Colorado’s shoulders chronically ached from lifting heavy wooden beams, Ms. Vazquez said, but he felt that he needed to keep working, or

some other worker would just take his place. After his fatal fall in March 2014, she was unable to learn anything more about the accident from his former employer.

“I still don’t know what happened,” she said, wiping tears from her eyes, in an interview at her apartment in Bushwick, Brooklyn. “I don’t know if he had any last words.”

Big Jobs

Gurmeet Singh came to America on a tourist visa about 13 years ago from a farming village near Kapurthala, in the Punjab region of northern India. He did not return home until his body was shipped back in April 2014.

Mr. Singh, a former soldier in the Indian Army, found brick-pointing and other construction work in New York. For a time, he shared an apartment in Richmond Hill, Queens, with a rotating cast of three or four men, usually fellow Sikhs. He eventually began sending money back to his family in monthly installments of around \$2,000, according to receipts provided by relatives.

Two sons later came to the United States and roomed with him briefly; both are now in Kentucky, one working at a gas station and the other at a restaurant, said a daughter, Rajwinder Kaur, who now lives in South Ozone Park, Queens. Before his death, Mr. Singh told relatives in India that he hoped to return soon. But he decided to stay for one more job: the Dream Hotel on West 55th Street.

“The boss said: ‘Can you just finish this job? I’ll give you \$10,000 and a free ticket to India,’” his other daughter, Palwinder Kaur, said in a telephone interview from India.

That boss, Mr. Singh’s family said, was Adalat Khan, a Pakistani-American businessman and fellow Punjabi speaker. Mr. Singh considered Mr. Khan a friend, having long worked for him, Mr. Singh’s family said. But

Mr. Khan told investigators after the Dream Hotel accident: “I do not know the name of the deceased.”

Mr. Khan was a subcontractor for a Queens firm, Alpha General Contracting. And though he said he had been in business for five or six years, he admitted to investigators that he did not know much about construction.

“I have no education for reading drawings,” he said, according to interview notes by safety administration investigators released under a federal Freedom of Information Act request.

Medical issues also limited Mr. Khan. “I do not work on the scaffold myself because I have a stent,” he said. “I did no inspections on site.”

The safety administration concluded that Mr. Khan ordered the employees “to remove planks” and modify the scaffolding in order to “finish the job” quickly. No guardrails were installed, and Mr. Singh, who was a sturdy 5-foot-8 and 190 pounds, had to climb a makeshift array of frames and cross-braces to get to workers’ platforms some 140 feet off the ground. But those platforms did not reach the wall, the agency found. As a result, Mr. Singh had two options to get the work done: lean over a gap and stretch several feet to reach the wall, or step on a thin, monkey-bar-like piece of metal.

After Mr. Singh fell, the other workers fled, according to records.

Mr. Singh was not wearing a harness, as required, investigators found. He also had a fake government safety card certifying he had completed mandatory safety training. The card listed the name of a trainer who had died several years earlier, according to people briefed on the investigation.

The agency later concluded that the scaffold had been “altered by untrained employees that were not supervised by a competent person.” It imposed a \$42,000 fine against Mr. Khan’s company, Pak National Gen. Corporation

In February, Mr. Singh's family filed a lawsuit in State Supreme Court in Queens, alleging negligence. Mr. Singh had also not been paid in three months, his daughters said.

"In this type of business, time is money, and there is only one way to be more profitable, and that is to cut corners on safety," said Pat James Crispi, the lawyer for Mr. Singh's family.

Mr. Khan did not return calls or answer text messages, and the residents of the Brooklyn apartment listed as Pak National Gen.'s headquarters said no one by that name had ever lived there. A lawyer for the company, Kamilla Mishiyeva, declined to answer written questions, saying litigation was still pending.

Mr. Khan has forged ahead in the construction business since Mr. Singh's death. Four months after the accident, another of Mr. Khan's companies, Tower General Construction, was granted a permit to renovate a six-story rent-stabilized building on the Upper West Side of Manhattan.

Repeat Offenders

While the Dream Hotel accident attracted a fair amount of news coverage, most of the workers died the way they lived: anonymously.

There was Jorge Juca, 29, an Ecuadorean immigrant, who fell last year from a ladder while doing demolition and renovation work at a supermarket in the Bronx. Federal investigators concluded that his employer, R.S. Ecu Contracting, "wanted job done fast" and "grabbed" as many "off the books" workers as possible, even though the laborers were "not provided with general safety training."

Several months later, another Ecuadorean, Francisco Quizhpi Quizhpi, 40, was installing siding on a house in Far Rockaway, Queens, when he plunged more than 14 feet and died. There were no guardrails and no supervision on site, according to federal records.

Many of the accidents were set against the backdrop of neighborhoods that have undergone rapid gentrification, where construction has been ubiquitous.

At 124 Ridge Street on the Lower East Side last December, workers were remodeling a pair of connected five-story walk-up buildings when Claudio Patiño, 32, fell through an opening to the floor below. His widow, Lourdes Gordillo, said her husband had been scared that the site was getting too slippery as winter approached but felt pressured to keep working.

“He told me it was all wrong, that any moment something could go wrong,” she said in an interview in a three-bedroom apartment in Corona, Queens, which she and her children share with two roommates. “He told me, ‘It’s a miracle we’re alive.’”

The owner of the Ridge Street buildings, Croman Real Estate, had been moving out longtime, rent-stabilized tenants to make way for ones willing to pay much more. (The company is now being investigated by Eric T. Schneiderman, the state attorney general, on allegations of improperly evicting tenants at its properties.)

Croman had long worked with the building contractor, Casur Management & Maintenance, from Long Island, even though it had a spotty safety record. In August 2014, OSHA fined Casur \$2,400 for “no guardrail around opening” at 124 Ridge and warned that a “person could fall.”

Four months later, Mr. Patiño did.

Casur, which declined to comment, delayed reporting the episode for 48 hours, violating an OSHA rule that all fatalities be reported within eight hours.

The company agreed in late June to pay \$9,750 in federal fines related to the accident. But just one week earlier, the company was cited by the Buildings Department for leaving a worker in an eight-foot-deep trench, without adequate protection, at the Ridge Street site. Two months later, at

another renovation project just three blocks away, on Suffolk Street, Casur was fined again by the city for unsafe conditions.

The pattern is a familiar one. Five of seven fatalities since July — including the latest on Oct. 30, at a new boutique hotel in Midtown — have involved contractors or subcontractors that had been fined by the safety administration on previous projects. Those fines totaled only about \$60,000, essentially a slap on the wrist, according to advocates for workers.

“Given the limited number of OSHA inspectors and low fines for violators, many employers do not take OSHA violations seriously,” said a recent report from the New York Committee for Occupational Safety and Health, a nonprofit advocacy group with union ties.

Another company with a long history of safety problems was Adar Steel of Brooklyn.

In 2012 and 2013, the safety administration fined Adar for violations at two work sites in Far Rockaway, Queens, and Midwood, Brooklyn, for failing to provide basic protections, such as ladders or safety nets. Workers with no training were also used. But the company ignored almost \$20,000 in fines, causing regulators to issue a debt collection notice.

On March 6, 2014, disaster struck at another Adar project, at 105 Metropolitan Avenue in Williamsburg. Manuel Colorado was passing some corrugated metal to a co-worker three stories above the ground, according to federal records, when he jumped from an I-beam to some scaffolding and fell two stories. Several workers, including Mr. Colorado, were not wearing harnesses, inspectors later found. They also discovered three beer cans at the site, though employees told investigators Mr. Colorado had not been drinking.

Adar, which federal regulators penalized \$53,200, promised to provide extension ladders and remove the unsafe scaffolding. But the company did not pay, and the safety administration placed the company on its “severe violators” watch list.

Even so, Adar continued to work. The next month, a safety inspector who was making random checks noticed an “imminent danger condition” at a site in Harlem that lacked guardrails, safety nets or other protection. The company was fined another \$11,800, which it again did not pay.

In September 2014, the company was hit with a \$2,400 fine — this time by the Buildings Department — for safety failures while demolishing a two-story house at a site in Kensington, Brooklyn.

The next month, the New York State Workers Compensation Board canceled the company’s insurance policy for nonpayment, records show.

Despite all of this, Adar Steel’s owner, Daniel Adar, has “no disciplinary history” with the Buildings Department, a spokesman said, and is therefore not barred from construction work.

In a statement, the department pointed out that another company had been issued a permit at the Williamsburg project where Mr. Colorado was killed, so the city could not take any action against Adar. But the department pledged that “in direct recognition of the recent increases in worker injuries,” it would “work with OSHA to proactively share information about bad actors to enhance both agencies’ enforcement strategies.”

Mr. Adar referred questions to his brother-in-law, Alad Danino. In response to written questions, he said: “We are working out payment plans for any open violations as we are a small company. I wish I can be more helpful but at this point that’s all I could tell you.”

Regulators Overwhelmed

The sheer volume of construction activity in the city makes regulating it challenging.

The Buildings Department breaks down complaints it receives into dozens of categories. Code 91 means “site conditions endangering workers.”

So far in 2015, the number of Code 91 complaints stands at more than 2,000, which represents about 6 percent of all construction-related complaints the department has received. In 2005, the comparable figure for dangerous conditions complaints was 682, or less than 2 percent of the total.

According to The Times's analysis of that data, the property with the most complaints for dangerous working conditions, by far, is a luxury project being erected at 252 East 57th Street, at the corner of Second Avenue.

Since January 2014, there have been more than 40 complaints at the location. In one case, an employee told the department: "I was working on a construction site yesterday. Two people were injured. They were advised NOT to call E.M.S."

But there have been no fatalities, and the project is proceeding in earnest.

The de Blasio administration, concerned about safety, plans to hire about 100 additional building inspectors, and is investing in better data tools to identify and remove troublesome contractors. It has also unveiled a new code of conduct for the construction industry.

But the Buildings Department and the Department of Housing Preservation and Development have historically been plagued by corruption. The most recent high-profile scheme snared nearly four dozen people, including building and housing employees and construction workers, for voiding building code violations and tenant complaints for as little as a few hundred dollars.

At the federal level, the safety administration has just 33 inspectors covering the city and 66 inspectors in the entire state — the agency's lowest numbers in at least five years.

There have been attempts in the past to improve worker safety, but that often simply gave rise to new methods of thwarting regulators. After a

spate of crane and scaffolding accidents in 2007 and 2008, the city required workers to obtain photo identification cards testifying to the completion of safety courses approved by the safety administration. But most workers must pay the \$300 fee themselves and take time off, usually two days, for training.

As a result, fraudulent cards have proliferated, investigators say; the going rate is now \$25 to \$80. Mr. Colorado had a fake card, OSHA records show.

As a deterrent, the city's Investigation Department has conducted random inspections of the cards on construction sites since 2012. This year, more than 20 people have been arrested. During a sweep in early October in northern Manhattan, witnessed by The Times, investigators inspected the OSHA cards of 74 workers. Three fake cards were confiscated, while 10 other workers lacked documentation.

In an unusual move, because criminal liability is often hard to prove in construction accidents, the Manhattan district attorney's office filed manslaughter and other charges in August against two construction managers and the companies for whom they worked in the death of Carlos Moncayo. Mr. Moncayo, a 22-year-old from Ecuador, was crushed in April at a construction site in the meatpacking district where the former restaurant Pastis will give way to a Restoration Hardware store.

Private inspectors had repeatedly warned the company of treacherous conditions, only to be ignored, prosecutors said.

The accident prompted the Buildings Department to post a new warning, reminding inspectors to call either 911 or the agency's emergency hotline immediately — not the company — if they noticed any “uncorrected hazardous conditions.”

“Why didn't we do it this way five years ago?” Mr. Peters, of the Investigation Department, said at a news conference. “Honestly we should have. We didn't.”

Reporting was contributed by Kim Barker, Veera Kaur, Ken Schwencke and Isvett Verde, and research by Susan C. Beachy.

Follow The New York Times's Metro coverage on Facebook and Twitter, and sign up for the New York Today newsletter.

A version of this article appears in print on November 27, 2015, on page A1 of the New York edition with the headline: Safety Citations and Anonymous Deaths.

© 2015 The New York Times Company