

OVERVIEW

India's three crore construction workers are literally the builders of modern India. They build the roads and highways, the railway tracks and airports and ports that connect the vast sub-continent and make India one country, spanning all its distances and diversities.

Construction workers are the backbone of the economy as they create the infrastructure necessary for industrial growth. In a globalising economy, it is they who are constructing the new economic zones, the IT cities, the call centres and mega malls that are creating new forms of wealth today. It is they who are laying the cables for a rapidly expanding country-wide telecommunications network.

Yet these workers, who are creating the base of the new economy, themselves live in a time warp, trapped in low skilled, low paid, insecure working conditions, bound by feudal working relationships, often literally in bondage. About one-third of these workers are women and children.

THE INDUSTRY'S CHILDREN

Lakhs of children are growing up on construction sites, playing in dust and rubble. These sites are particularly hazardous for young children who are prone to many ailments and accidents because of the environment they live in. First aid facilities are usually unavailable and access to health care is difficult. Many sites are in new, undeveloped areas on the outskirts of cities where few such facilities exist. It is ironic that while these workers are instrumental in developing new facilities, once a hospital or school is ready, they and their children will have no access to it because it will be time for them to move on to a new site.

There are no education facilities on sites either and access to schooling is a problem. Even if a child is admitted to a government school, retention in school is a problem if the parents are migrant workers. Those workers who have settled in a bustee or jhuggi area in a city and commute to work daily are more likely to have school-going children. However, settlement does not guarantee an education, as the parents' low wages and irregular employment frequently makes schooling unaffordable. Consequently, children start work on the sites as early as age ten, contributing substantially to the country's pool of child labour (See *BOX 1*).

BOX - 1

The Child on the Construction Site

The sharpest and most obvious impact of this environment is on the young child. Not only is he affected physically, but he often has to do without his mother's affection. Burdened with household chores on top of a heavy working day, the mother hastily 'dumps' her infants in the charge of older siblings, who may be no more than 6-7 years themselves. There are no elders, as in an extended family, who can help out. . Babies are given heavy rotis and spicy chutneys to eat before their system knows how to cope with such a diet. Dust, exposure to the elements and enteric infections take their toll and many succumb. Others are severely malnourished and have a variety of deficiency diseases.

Children who have survived this period are tough. The parents grew up in a rural situation, poverty-stricken, but where the physical environment was healthier. On urban worksites, however, sugar is substituted for jaggery, grain is more expensive, vegetables and milk beyond the reach of most families. The conditions which laid the foundations of physical sturdiness for the parents are denied to the children. The migrant way of life is constantly eroding both the physical status and those features which provided the parent group with psychological and emotional stability. These strong cultural entities are part of rural communities that have drawn sustenance and stability from a life close to agricultural rhythms, religion and traditional values. They have a well-defined code of behaviour which gives them their fearlessness, their strength and their pride.

For the child these vital stabilizing factors do not exist. He is plunged into a situation of transience. The faces around him keep changing. Many of his companions speak other dialects and friendships are difficult to form. The only constants are his immediate family – a nuclear situation made more severe by frequent movement. As a result, children with little experience of group interaction tend to react more strongly to the pervading drift and tension, and to be affected by the stresses of their precarious economic status.

In the rural setting, even if the child did not go to school, he had areas of experience to sustain him. On the worksites, children are felt to be a nuisance, getting in the way of work. They can pick up few skills. With learning opportunities severely limited and the possibility of entering schools closed, the migrant child is more vulnerable, more exposed and less equipped to deal with the harsh factors of marginal existence."

— extracted from *"Who Cares? A Study of Child Care Facilities for Low-Income Working Women in India"* by Mina Swaminathan, Centre for Women's Development Studies, 1985.

MIGRATION AND BONDAGE

Given the abysmal working conditions and low wages in the sector, as far back as the 1960s the study group on construction of the First National Commission on Labour had recommended decasualisation of construction employment. The recommendation went unheeded.

The Second National Commission on Labour, in 2002, observed that, "In quarries and brick kilns as well as big construction sites, a system of bondage exists and gets extended from one generation to the next through child labour."

Migrant construction workers frequently come from the poorest landless rural communities including Scheduled Castes and Tribes and Other Backward Castes (See BOX 2).

BOX - 2

Scheduled Caste and Tribes Predominate

The landmark report on Indian women's status "Towards Equality" made the following observations on construction workers:

"According to the (First) National Commission on Labour, the employment of contract labour is most pronounced in the mining and construction industry. The construction undertaken by the public works departments of the Government in 1957, employed 60% of their labour on contracts."

"The Government is the largest employer as public constructions – dams, bridges, roads and public buildings, make up the major share of expenditure in this industry."

The Committee initiated two surveys in Bihar and Delhi. Subsequently, Chitra Ghosh summarized the findings of these two surveys and a third survey in Andhra Pradesh thus:

"Based on three surveys of women construction workers a picture (not necessarily representative) emerges of these women and their social context. Harijans and tribals are the largest groups represented, although they comprise only 15 percent and 5 percent of the Indian population respectively. Ninety-six percent of the Delhi construction workers are Harijan migrant labourers from Rajasthan; Harijans and tribals together comprised 90 percent of the Andhra sample. As construction work is extremely taxing, most of the women are young (average age 25) having joined the workforce before they reached their teens. Almost all are illiterate." – from the chapter 'Construction Work' in "Women and Work: Continuity and Change" edited by Lebra, Paulson, Everett, Promilla & Co, 1984.

Although the demographic picture has changed somewhat, with, for instance, more construction workers coming to Delhi from other states, the finding that the majority were from Scheduled Castes and Tribes is significant. It is apparent that the rural groups most likely to migrate in search of work are those who own the least land or are landless labourers. SC and ST are the largest landless groups in rural India, so they are likely to comprise a significant section of construction workers.

— Extracts from "Towards Equality – Report of the Committee on the Status of Women in India, Government of India, 1974

This is an area where little data exists. However, it is self-evident that these are the rural communities that are particularly vulnerable and most likely to accept a raw deal from the contractor or employer, particularly because wage labour opportunities in the rural sector have been shrinking in

recent years. Often they are hired from distant places and become completely dependent on the thekedar because they do not speak the local language and consequently are cut off from the local populace. Although protective legislation for migrants exists, for instance the Inter-State Migrant Workers' Act, it is never implemented. Thekedars usually advance a sum of money to the migrant workers and pay for their travel to the worksite, virtually rendering them bonded labour.

In several states, migrant workers face the antipathy of locals as they are perceived as taking over local jobs. This hostility makes their situation even more vulnerable. In Kerala, for example, migrant workers are being excluded from registration with the state welfare board. In Goa (See Box 3) the state government is actively discouraging the entry of migrant workers.

BOX - 3

Goa plans to check inflow of migrant labour

PANAJI, SEPT 14. The Goa Chief Minister Manohar Parrikar says his Government intends to stop the "unchecked migration" to the state through economic measures..."A small state like Goa cannot afford to bear the burden of thousands of migrant labourers," he said. Moreover, the migrant population which was taking up less-paid work such as those in the con or agricultural sectors, was a "burden" on the state's economy....

Elaborating on the economic measures, Mr. Parrikar said the Government was encouraging the setting up of ready-mix concrete plants to minimize the dependence on manual labour in the con sector....Contractors who brought in migrant labour for various works would be required to deposit a hefty amount with the Government, besides being compelled to provide basic amenities to them.

— *Extracted from The Hindu, Sept 15, 2004*

It is significant that there are large numbers of such seasonal, migrant, bonded workers at brick kilns and various types of quarries. In her micro-study "Sukhvasin – The Migrant Woman of Chhattisgarh" researcher Iliana Sen notes that, "Nowadays the migration is mostly towards North India, to the quarries and brick kilns of the Ganges delta in Uttar Pradesh...and to the construction sites of housing estates, development projects and public works in Haryana, Punjab and Jammu and Kashmir."

Sen's study documents the exploitation by railway staff and police en route. Migration is usually in a large group led by a jamadar. Once they reach their destination, migrants are settled in camps. "The camps by and large consist of enclosed groups of 40-50 houses (*jhuggis*) sometimes with a common water connection for the whole camp. Facilities for health and education are by and large non-existent, and the contractors assume no responsibility for these although they are bound to by the Act....

"The brick kilns of Uttar Pradesh where, at a conservative estimate about half the (Chhattisgarhi) migrants go, are usually far from human settlements, and workers live there in semi-internment conditions. The local weekly markets are far, and in many places a separate market with rates of all

essential commodities hiked up, is held after pay day...The atmosphere at the camps is generally one of distrust and most workers come back with stories of having been cheated..."

Even where migration is less exploitative, the fact of constant displacement leaves migrants unsettled and unable to exert autonomy over their work and lives (See BOX 4).

BOX – 4

A Migrant Worker in Delhi

Pinky, a construction worker from Bhimrao Camp in Dakshinpuri, works in Delhi for eight or ten months every year. She and her husband have worked for the same contractor for many years.

"Do I like my work? Well, there is no other choice. Construction work is the only kind of work left open to seasonal migrants like us. I keep going back to the village... because I miss my children.

...the work is very strenuous. We often lift loads of 100 kg. *Haath pair bahut dard karte hain.* (Our hands and feet ache a lot.) I am mostly involved in public related construction work – building roads, public utilities, toilets, garbage pits etc. The stench is terrible. Sometimes, we have to vomit because of the stench of the garbage...

We have to work the whole day. The shift begins at about 9 a.m. and finishes at about 5 p.m. one hour's lunch break, that's all. Often we have to work after 5 p.m. sometimes all night...till 5 a.m. the next day. No rest. We get overtime after 5 p.m. Depending on how long after that we have to work. Night shift may cost the contractor Rs 135.

The *munshi* pays Rs 65 for a day's labour. Every week we get about Rs 200 per labourer for rations, living expenses etc. We collect our total dues when we leave for the village.

Generally we do not get any leave. The *munshi* informs us a day in advance when there is work and a tempo comes to collect us in the morning. He pays for this. We do not get any food or water – food, we pack our own and take to the site. We have to ask the people nearby for drinking water. Or else find a tap to drink from.

We go to work in all kinds of places. Nizamuddin, Kotla, Okhla, Old Delhi. It takes an hour or two coming back in the evening...depending on where we have to go to work. We just go where we are told.

— extracted from *"Rights and Vulnerabilities. A research study of migrant women workers in the informal sector in Delhi," Jagori, 2004.*

EMPLOYMENT DATA

No accurate figures exist on the numbers employed in the construction industry but since it comprises activities ranging from building small houses to mega dams and bridges, roads and railways

it is evident that construction is a major employer. The Second Labour Commission estimates that the construction sector employs about 16 percent of the country's workforce.

The National Institute of Construction Management and Research (NICMAR) says that 14.6 million people were directly employed in construction in 1995-96.

The National Campaign Committee on Construction Workers (NCC-CL) on the other hand estimates that there are approximately 30 million construction workers in the country.

One must also remember, while looking at any data for the sector, that statistics for the industry do not capture the whole picture. According to the International Labour Organisation's publication "Women and Men in the Informal Economy – A Statistical Picture", in India "Informal employment accounts for virtually all employment in agriculture and in trade (99 percent for both industries) and the overwhelming share of employment in construction (94 percent).... There is evidence that casual workers for informal firms, particularly in the construction industry....are not fully captured in statistics on informal enterprises. With no fixed place of work, these workers are often missed in data collection efforts."

Census data for 1991 says that there were 5534 thousands (5.5 million) employed in the construction industry, of which 5122 thousand were males. This means there were 412 thousand females.

According to the 1981 Census out of a total of 36 lakh (3.6 million) construction workers, 10 per cent were female. The corresponding NSSO figure in 1983 was far higher at 65 lakh (6.5 million) of whom 15 percent constituted female workers.

According to Pravin Visaria's analysis, the proportion of males in construction, out of eight sectors ranging from agriculture and manufacturing to trade and services, went up steadily from 2.1 percent in 1972-73 to 4.1 percent in 1993-94. However, women's employment in the sector did not show a similar increase. In 1972-73 women construction workers were only 1.3 percent and by 1993-94 they were only 1.2 percent of workers in the total range of employment. (Pravin Visaria, Gender and Employment in India).

While Census data points to an increase in employment between 1981 and 1991, it is in the post-liberalisation phase of the past decade that workers are experiencing a loss of work. Census data for 2001 for the construction industry is not yet available but other data points to the growing problem.

According to Ministry of Labour data, employment in construction has been falling in recent years. For instance, in public sector enterprises construction employment went up between 1981 and 1991 but in the post-liberalisation period has shown a definite decline:

Construction industry employment in public sector (in lakh persons)

1981	10.89
1991	11.49
2001	10.81
2002	10.26

The trend of declining employment post-1991 is far sharper in the private sector.

Construction industry employment in private sector (in lakh persons)

1981	.72
1991	.73
2001	.57
2002	.56

The same declining trends post-1991 are evident if one looks at mining and quarrying. The construction industry unions and NGOs have long demanded that unregulated sections of these industries (such as sand mining on river beds) should be included in construction and governed by the construction industry legislations.

Public sector employment in Mining and Quarrying (in lakh persons)

1981	8.18
1991	9.99
2001	8.75
2002	8.61

Private sector employment in Mining and Quarrying (in lakh persons)

1981	1.30
1991	1.00
2001	.79
2002	.68

It must be kept in mind that the sheer numbers of people available for employment have been going up rapidly during this period, yet employment has been shrinking because of policies adverse to labour.

WOMEN'S EMPLOYMENT

When it comes to female employment, however, the trends revealed by statistical analysis are more mixed.

Public sector employment of women in construction industry (in thousands)

1981	49.8
1991	55.3
2000	63.2

Private sector employment of women in construction industry (in thousands)

1981	9.5
1991	6.0
2000	4.0

These figures of the Directorate General of Employment and Training suggest that on the one hand women's employment in construction has been increasing in the public sector, on the other hand it has fallen to less than half in the private sector.

All anecdotal evidence, however, points to a decline in employment in construction for both women and men, and particularly for women. The reports of the five public hearings and two surveys sponsored by the NCW testify to rampant unemployment and underemployment in the industry. So do earlier NCW hearings on globalisation and its impact on employment (See *BOX 5*).

BOX - 5**"Machines are taking over our jobs..."**

The Nirman Mazdoor Panchayat Sangam and other unions in Tamil Nadu have been agitating against the introduction in the post-liberalisation period of new technologies that displace workers. In particular, they have held protests against the introduction of Ready Mix Concrete and against Poklain machines.

At the Public Hearings on Impact of Globalisation on Women conducted by the National Commission on Women in Tamil Nadu in 2002, workers gave ample evidence of the labour displacement effect of these new technologies, and the consequent loss of jobs and resultant penury.

At the Trichy Hearing, a woman construction worker, Mariammal said: "There is no job for a woman construction worker. When labourers used to lay concrete, daily we used to get Rs 70 to Rs 80 and there was no difficulty. We find it difficult to get jobs even for two days because of the introduction of the machines that make and lay Ready Mix Concrete."

Devasagayameri Leelavathi said, "I have two children. In 1970s I got Rs 20 per day. Daily I used to get work. We could live comfortably. When machines were not there, we built houses. For the past five years machines from abroad have come. The quality of the construction built by the concrete laid by machine is inferior. Three years back we used to get Rs 400 per week but now we

receive only Rs 140 per week. Most of the women have left this place for want of work. We are continuously fighting to remove this machine but the government is not taking action."

Saroja said, "Because of the machine we aren't able to get any work. For the past three months, I don't have any job. I find it difficult to educate my two children. My husband also doesn't have job. There is no way to get even gruel. Even if one of us doesn't have a job how can we live? There is no alternative but to die by consuming poison."

At the Coimbatore Public Hearing, Kalamani, a concrete laying worker said, " For the past two years we are not getting regular work. We find it difficult to get work even for two days in a week. How can we manage with our daily wage of Rs 60. We are not able to educate our children....we don't have food, clothes or shelter. We are unable to pay even the rent...."

Radha, a digging worker, said, " I am an earth worker. For the past two years, machines are being employed for digging trenches and this has affected us in getting jobs. Work is available for only two or three days in a week...We borrow money to meet both ends...."

At the Chennai Hearing, Kala testified that machines had taken away jobs, "We used to get work on all the 30 days of the months. Now we are getting only for five days in a month..."

Adhilakshmi said, "We lost our jobs due to machines..."

Stella, a mason, said, "While I was working as an ordinary labourer I learnt masonry work...There are many big builders in Chennai. They now use machines of all work. Due to this there is no work for not only.... labourers but also for masons. I was working in Jain builders and 80 workers were sent out of job because of machines and majority were women."

There are various estimates of the numbers of workers displaced. V.P. Muthiah, Treasurer of NMPS says, "L&T, Birla, Ramco cement companies etc prepare the Ready Mix Concrete (RMC). The advantage is it can be laid at a faster speed but the cost is twice that of the traditional way of laying concrete. In laying RMC only four workers are needed instead of 30 workers working traditionally....

"...the Poklain machine, that cleans the place within an hour, costs twice the wages of six persons who can clean that place for a day. These jobs can be done with human labour and the expenditure can be saved...The arrival of Poklain machine has caused loss of employment of earth workers. The cost of using this machine is Rs 1000 per hour."

Santhanasamy, State Organising Secretary of NMPS, testified that there were nearly one lakh construction workers in Coimbatore district. Ten thousand of these were digging workers, half of them women. Fifteen thousand were concrete laying workers, two-thirds of them being women.

The NMPS agitated against the use of Ready Mix Concrete, holding a demonstration, followed by a hungerstrike. Santhanasamy said, "There were four rounds of talks. In the fifth round the RMC

companies promised before the Deputy Labour Commissioner (of Coimbatore region) that they will not use the machines for building any area of less than one thousand square feet. On behalf of the Union we have placed a demand and we are pressing for ban on the RMC machines up to 5000 sq. ft. area."

The agreement was reached on March 1, 2002 and so far the companies have honoured it (See BOX 3). The job situation has eased slightly but there is still not full employment – only work for two or three days in a week. The Labour Commissioner's office does not believe that it is empowered to dictate terms on such an issue to the companies. Clearly, the problem has not yet been resolved satisfactorily, although the workers have gained some space and time.

NMPS argues that RMC is not necessarily of better quality than conventional concrete mixed on the site. RMC has to be used within one and a half hours of preparation but since it is usually prepared 10-20 km. away, it has to be diluted by chemicals to prevent it from setting.

Santhanasamy said that the digging workers were worse off now than even the concrete layers. JCP machines, designed to dig two-foot wide trenches, are now being used to do the digging of the foundations of whole buildings.

Geetha, leader of the NMPS said, " Government had to provide employment and Government itself is using machines for digging etc (on PWD, Housing Board and other sites)...Our demand is to stop machines on Government construction...."

— *Extracted from NCW Report of Public Hearings on Impact of Globalisation on Women, organized by Women's Struggle Committee and Joint Action Committee of Unorganised Workers*

In Delhi, for instance, 80 percent of women surveyed reported that they were unemployed for 11-20 days in a month (See *Delhi survey Table and analysis*).

The Report of the Second National Commission on Labour, warns that, "The present trend towards induction of modern technology in construction industry is likely to transform the traditional labour market and indicates that there would be increased mechanization and manual and women workers would, therefore, be increasingly eliminated from large construction projects...."

When machines come in, the first to lose jobs are women workers as they are considered the least skilled. They invariably do only digging and manual head-loading work on construction sites and are the most expendable. In fact, the work they do has been tremendously undervalued (See *Box 6 and BOX 7*).

BOX - 6

A Life Long Headload

"Shahjehan is a 55-year-old woman who worked as an unskilled construction worker (beldaar) for over two decades. She says, "As there was no other support for the family I went on working year after year, even though my body ached badly. Carrying heavy loads on my head I would walk and climb again and again even though I felt my body can take it no longer. Then I had an accident but after some rest I had to return to the same work again. Now I've left work and my eldest son supports the family but even though I don't work now my head aches all the time. It appears as though the loads I carried have come to exist permanently on my head. I just touch my head with my own hand and it starts paining so badly."

— Extracted from *"Building Skyscrapers, Living inhovels"* by Bharat Dogra, National Campaign Committee for Central Legislation for Construction Labour, 2004

BOX - 7

Some Amazing Facts

There have been some attempts to measure the intensity of work done by women in construction work. For instance:

- In concreting, it was found that in 15 minutes, about 55 bundles, each weighing 7-8 kg, passed through the hands of women. In an 8-hour shift, therefore, an incredible 32,000 kg. would have passed through a woman worker's hands.
- For masonry work, women carried 9-12 bricks (each weighing 2.5 kg) on their head and moved with grace and skill along the scaffolding.
- While doing earth work women carried on their head 15 kg. of mud and walked 30 feet to deposit the mud and return. In an hour this was repeated 180 times. In an 8-hour shift a woman on average would have walked about 13 kms carrying about 21000 kg. of mud.
- While using a crowbar to dig into the earth, women would do this 15 times a minute, matching the efficiency of able bodied men.
- In curing, women were found carrying water in pots each weighing 8 kg., 15 times per hour, to pour over concrete structures.
- In breaking Jallis, women used an iron hammer 52 times per minute and went on doing this for a 9-hour shift with a one hour break in between.

— Extracted from Girija R. and Geetha R. et al., *"Socio-Economic Conditions of Construction Workers in Tamil Nadu, Report submitted to ICSSR, 1989 (Mimeo)*

Gender bias prevents them from learning masonry or carpentry or other specialized trades. The dearth of jobs in turn makes women more vulnerable to sexual overtures and pressure from thekedars and employers. Domestic budgets too are under pressure as households that earlier survived on a double wage are finding it difficult to manage on a single wage.

THE INDUSTRY

The construction industry has an annual turnover of Rs 2,10,000 crores. It contributes substantially to India's GDP and its capital formation.

The Government is the largest principal employer of construction workers as it undertakes the maximum construction work. It is responsible for building the nation's infrastructure and for maintaining it. It also sets many of the industry's norms.

Consider the kind of outlay on construction projects. For example, the Union Budget of 2003-04 specified a major thrust towards infrastructure, principally to roads, railways, airports and seaports. Some 48 new road projects were to be initiated at an estimated cost of Rs 40,000 crore, plus another Rs 2600 crore for highway development; rail projects were estimated to cost Rs 8,000 crore; two airports were to be modernized and two seaports developed at a cost of Rs 11,000 crore; and two international level convention centers were to be set up costing Rs 1000 crore. This alone involved an outlay of Rs 62,600 crore. It is true that a large chunk of this money was to be raised with the involvement of private players, nevertheless the government's stake is enormous.

Although government is the largest principal employer in the construction industry, only some of its construction work has been done by public agencies, such as the Central Public Works Department (CPWD) and public sector firms, such as the National Building and Construction Company (NBCC). Most construction activity in the post-Independence years has been undertaken by government bodies through private construction companies.

The Second National Commission for Labour estimates that some 200 construction companies comprise the top rung of the industry, followed by 90,000 middle-level firms who fall into the category of class 'A' contractors. At the bottom are some 6 lakh small firms/contractors/sub-contractors.

IMPACT OF GLOBALISATION

The sector is witnessing rapid change in the post-liberalisation phase of the economy. The private sector is being urged to play a leading role in infrastructure development as the country's limited infrastructure is being seen as a hurdle to rapid economic growth. Private sector and foreign investment is being encouraged. Several major projects are already being executed by the private sector through the Build, Own and Operate route or the Build, Operate and Transfer method. Joint ventures with partners of multi-country origin are being encouraged.

Researchers point out that these changes have happened because of the pressure of the WTO. The study "Relocating Space for Women Workers in the Construction Industry" by Ashok Raj and Rakesh Kapoor notes :

"Under the prevailing WTO regime, the essential requirement of global tendering has facilitated the entry of many MNCs in the Indian construction scene in a big way. The presence of some of these companies is increasingly visible in many infrastructure development projects being undertaken under government funding as well as under bilateral/multilateral assistance arrangements. Major foreign companies which have already arrived are: Bechtal (USA), Hundai (Japan), Mitsui (Japan), Obayshi (Japan), Savdesa (Sweden) and Traffel House (UK).

"Many world leaders in construction have already arrived staking claim on projects for building of petrochemical plants, refineries, factories, roads, bridges and metro rail projects. Highly technology-smart and equipped with huge paraphernalia of latest machinery and construction methods, the entry of these companies is going to have far reaching implications for the domestic construction industry as well as the labour.

"For the industry, the main trends are easily discernible. First is a rapid and complete privatisation of the construction sector. Although government would remain the major client and probably the major credit provider, the role of public sector companies and government departments in construction projects would become extremely marginal.

"However, far more significant would be the rapid transformation of the technological base of the industry. This transformation is being propelled by two mutually reinforcing factors. First is the immediacy of the need of the domestic industry to become technically competitive to come at par with the foreign stakeholders in the construction market. The second factor is the growing interest of the foreign manufacturers of construction machinery and accessories....for whom India is a potential huge market to sell their hardware and technical expertise. With extensive marketing strategies, these companies are now making inroads into the Indian construction industry in a big way virtually eliminating the role of domestic companies like Hindustan Earth Movers Ltd, Engineers India Ltd. and many others."

The same study estimates the impact on construction labour if major construction equipment and accessories are produced in factories and brought ready made to sites.

TABLE
Major Construction Equipment/Accessories being Factory-produced

Equipment/Accessories	Impact on Labour
Excavators	Reduction to 1/20th of present workforce
Ready-mix concrete (RMC) plants	Reduction to 1/20th of present workforce
Concrete pumping machines	Reduction to 1/10th of present workforce
Chemical concrete curing	Reduction to 1/5th of present workforce
Bar-bending machines	Reduction to 1/5th of present workforce

Equipment/Accessories	Impact on Labour
Steel structures with high tension bolts	Reduction to 1/10th of present workforce
Wall panels (made from fly ash-based cement)	Reduction to 1/10th of present workforce
Pre-fabricated segments	Reduction to 1/10th to 1/5th present workforce
Complete pre-fabricated steel structures	Reduction to 1/20th of present workforce
High-strength concrete ASC slabs of different sizes (made from flyash-based cement)	Reduction to 1/20th of present workforce
Auto-dov wall panels using flyash cement (aerated, light weight -half of a mud brick weight, low cost and high heat isolation property; most useful in earthquake prone regions)	Reduction to 1/20th of present workforce
Pre-engineered buildings	Reduction to 1/50th of present workforce

Source: Information collected from industry sources by Raj and Kapoor.

Construction industry unions bear out the fact that technological changes are leading to retrenchment and job loss. At NCW sponsored Public Hearings on the impact of globalisation there were several such testimonies (See BOX 5)

It is apparent that the changes in the industry are a result of conscious policy decisions by the Government. The Planning Commission had set up the Construction Industry Development Council (CIDC), jointly with construction corporates, to facilitate modernisation of the sector. The critical factors that the CIDC identified as hurdles to growth of the industry include lack of access to new technologies, lack of mechanisation and infrastructure, poor financing policies and lack of training for construction workers. CIDC estimates that jobs will increase rapidly. For example, it projects that by 2007 anywhere between 23 to 25 million jobs could be available in the sector. However, it seems to have glossed over the impact of the mechanisation and technological changes that it recommends.

"According to CIDC estimates the growing investment being made in the industry will generate over 20 million employment opportunities. But it seems that this estimate has not taken into account the impact of mechanisation on labour deployment." (Raj and Kapoor, 2003)

Again, CIDC documents hardly take into account the existence of women workers in the industry or the consequences on them of rapid mechanization, although it is well known that female workers are almost invariably the first victims of technological change, since gender bias ensures that they are considered the least skilled and most expendable.

The impact of the introduction of a single technology, Ready Mix Concrete, is indicative of the sweeping nature of the problem (See BOX 8).

BOX - 8

Ready Mix Concrete and its Consequences

ACC, L&T, Birla Cement, Ramco and other companies have introduced Ready Mix Concrete (RMC) and are promoting it in a big way, arguing that it can be laid faster than the traditional concrete mixed on the site.

Competition is encouraging the introduction of such products. Ever since the French multinational Lafarge entered the cement market, the share of ACC is getting reduced and the company is diversifying into RMC and has created a niche market for it in some parts of the country (Raj and Kapoor).

According to Larsen and Toubro's Annual Report 2003-04, "L&T Concrete is a market leader with 31% share in the Ready Mix Concrete (RMC) market in India. Road connectivity projects across the country, flyovers, conversion to concrete roads, metro rail projects etc. have contributed to growth in RMC. Acceptance of cement substitutes has also helped popularizing RMC. The Company plans to expand the RMC operations rapidly in the country by investing in additional RMC plants in select markets."

Elsewhere it says, "The (Engineering, Construction and Contracts) Division plans to consolidate its leadership position in the ready mix concrete business."

And again,. "The Ready Mix Concrete business reported total revenues (including inter-segment revenue) of Rs 262 crore and an operating margin of 7% during 2003-04. With expansion underway, the RMC business is expected to report growth in revenues and profits in the years to come."

The company hived off its cement business in 2003 to Ultra Tech CemCo Limited but significantly kept its RMC business.

BOOMING SECTOR, DECLINING WAGES

Traditionally, construction has been a highly profitable, labour intensive industry whose profits have come largely from the total exploitation of the workforce. Even the minimum wage is rarely paid in this sector. No labour laws operate in construction, not even on the large sites. An efficient system of contracting and sub-contracting ensures that the principal employer evades all responsibility for the workers employed. Practically all employment in the construction industry is of a casual, temporary nature. Work security is unknown.

In recent years, the construction sector has witnessed a boom. According to the CIDC, Gross Capital Formation (GCF) in the industry has been growing rapidly. Between 1986-87 and 1993-94 it increased over two and a half times.

In 1980, for example, GCF was Rs 13649 crore. By 1990-91 this had risen to Rs 58363 crores. By 1993-94 GCF had shot up to Rs 79373 crores.

It is a singular irony that while the capital formed in the industry has escalated phenomenally, wages in the industry have actually been falling.

According to estimates of the Indian Labour Journal, per capita daily earnings of those covered under the Payment of Wages Act, 1936 in the construction industry reflected the following trend:

Year	Per capita daily earnings
1989	59.52
1990	58.32
1991	53.41
1992	39.97
1993	40.04
1994	63.00
1995	56.84
1996	45.50

Source: Compiled from Indian Labour Journal, March 1998 by Raj and Kapoor (2003)

The five Public Hearings on construction also provide distressing evidence that for construction workers employment is becoming harder to find, resulting, inevitably in depressed wages. The Delhi survey indicates that most women earn no more than Rs 975 a month, working 15 days in a month at an average of Rs 65 per day. In Jaipur the average wage for women is lower at Rs 55 per day.

RECRUITMENT PATTERNS

Workers are employed through the agency of the labour contractor who is known variously as the mistry, mukadam or jamadar. This contractor is the link between the principal employer and the worker but he basically represents the contractor's interests.

There are four methods of recruitment of labour:

- Direct recruitment of workers by contractor
- Recruitment of workers from rural areas by labour contractors
- Recruitment of workers from city slums by labour contractors
- Recruitment of workers from the market place (naka, chowk) by principal employers or mistrys

On large sites contractors either recruit labour themselves or arrange for labour contractors to bring groups of workers from distant rural areas. Even when regular work is available on large sites for long stretches of time, workers are kept as 'temporary' and not given any of the facilities due to permanent workers (See Box9).

BOX - 9

Pattern of Employment on a Construction Site

"... On the typical building site, the earliest workers to arrive are the Jamadars or labour contractors with a few unskilled workers recruited to carry mud. While the pile drivers are at work – both men and women work below ground level to transport the mud that is displaced. Very often the subsoil water seeps in, and these workers (the women holding babies in one arm) walk up slippery slopes in the slush carrying heavy loads on their heads.

If an old building is being razed before a new multistory apartment is built, the building breakers come in. They are a different lot from the unskilled labourers which move in when the building starts.

As the massive concrete blocks come up, more and more unskilled labourers move in with their families. By now, the earth has been dug down to 20 feet below ground, and the women and children walk up the narrow planks that are precariously perched and serve as temporary bridges. There are no railings to hold onto – implying unsafety in work.

As the building progresses, and each storey comes up, the women have to climb higher with each load. There are only open staircases, and floors with no walls, with water dripping from everywhere (obviously necessary before the cement sets).

It is at this stage that we find largest groups of families of unskilled migratory labour on construction site – up to 200-300 families with as many children below the age of ten years. On any given day, we can see at least 70-80 children wandering on the site, usually in groups of two or three with the older children carrying their younger siblings on their hips....

While these labourers are moving higher up in the building as the storeys are being built, they find it difficult to negotiate the open staircases, or sometimes dangerous and open lifts (just a wooden plank going up and down in an open shaft) with their babies on their hips. So then the infants are left in the care of the older sibling who is often barely four years old!"

— *Extracted from report by Mobile Crèches, Delhi*

Even in large government undertakings huge numbers of workers are kept temporary for years together. Many have managed to get their jobs regularized after years of struggle on the streets and petitions through the courts.

It is significant that no paper work exists when it comes to employment of workers. While extremely detailed contracts are signed between the principal employer (or owner of the worksite) and the various contractors who undertake a project for them, spelling out the specifications of the work to be done and the materials to be employed, it is strange that there is never any reference to the number and types of workers to be employed for executing the work. Workers are treated as invisible

throughout the process of 'tenders' and 'contracts'. Naturally then no minimum standards are set down for the employment of labour and the conditions in which they must work.

Yet, it is a fairly simple job to estimate the types of labourers and the skills required at different stages of the construction process and to ensure that basic facilities exist for housing the required number of workers as well as their families.

THE CONSTRUCTION PROCESS

M.S. Kaveri in her study "Construction Workers, Unionization and Gender" (Women, Work and Inequity, The Reality of Gender edited by Cherian Joseph and K.V. Eswara Prasad, National Labour Institute, 1993) describes the different stages of the construction process thus,

"A typical construction of say a building starts with excavation needed to lay the foundation. This work is done on sub-contract by foundation workers who do the earth work, digging etc. Often, they also construct the foundation.

"The second type of specialised activity is the pouring of concrete which is done by the concrete pouring groups. This work is sub-contracted not so much for skills but because of the relative ease with which leaders are able to arrange for large number of labour at short notice.

"The third sub-contracting is done for centering work. Centering work is using centering materials such as iron or wooden planks/sheets, posts, bamboo or wooden sticks etc. to construct a temporary framework needed to assist the construction of a concrete building/roof.

"Lastly, there are five other types of sub-contractors, namely steel bar benders, carpenters, painters, plumbers and electricians who are involved as specialists at various stages in construction work.

"Women are employed in almost all the work related to the construction process, from foundation work to masonry and beyond. They help in removing over-ground materials once excavated, carry water, sand, jelly, cement mixture for foundation laying and concrete pouring etc., carry stones, bricks and tools required at the premises. Women also help in the erection of scaffolding by carrying centering materials, do the smoothening of surfaces with available local materials before concrete mixture is poured for roofings and once a structure is laid, do the curing operations etc."

Male helpers do digging, demolishing, scaffolding and operate the mixer machine. Masons perform the most important activity in construction namely, brick-laying, concreting, leveling and plastering. *Mistrys* are senior masons or agents who control a small number of workers.

This division of labour has meant that large numbers are employed in the industry at less than minimum wages. The workers comprise a highly flexible and pliable workforce that can be deployed anywhere at any time in the most arbitrary manner (See BOX 9).

HAZARDS AT WORK

Accident rates are high in a hazard-prone occupation. Safety provisions are rarely observed. The first aid facilities available at sites are of little use. Most contractors do not bother to pay for medical treatment of an accident victim, even if the injuries render the worker unable to earn for a long stretch of time. Many accidents result in fatalities. Contractors and employers usually try to cover up fatal accidents lest they be held liable. Paying off the worker's family with a small sum of money and/or quickly sending off the body to the worker's native place are common practices. Paying compensation for disability or death is extremely rare.

Although accidents are common, there are no insurance schemes for workers in the construction sector. The only time that workers get any kind of accident compensation is when there is a union present to pressurize the contractor or principal employer. Unions are rare in this unorganized industry. The Second National Commission for Labour for example cites a survey in which only 8 out of 999 workers said they were members of a trade union (less than one percent).

The issue of accidents and accident compensation was raised by workers at all the Public Hearings. The report of the Bangalore Public Hearing focuses entirely on this aspect of work in the construction industry, with case histories of women and men killed or injured in accidents and the subsequent struggle to get compensation.

THE GENDER FACTOR

Work on construction sites is invariably divided along gender lines. The types of work that men do are labeled as 'skilled' work and fetch higher wages than the work that women are allowed to do. Women are restricted to headloading and '*beldari*' jobs that involve fetching and carrying of materials and this type of work is labeled as 'unskilled' work. Naturally, 'unskilled' work is paid less than 'skilled' work. This division of labour seems to be prevalent everywhere in the country.

Even where men are hired to do '*beldari*' jobs, they are, by custom, paid a higher wage than women. The Equal Remuneration Act is flouted everywhere. On some jobs, men and women are treated as a couple and wages are paid to the man, not the woman.

NMPS leader Geetha points out that it is inherently unfair to label the woman construction worker's job work as unskilled, "Assisting a mason and anticipating his exact requirement so that work can progress smoothly requires a high degree of skill, as does climbing scaffoldings and balancing loads of bricks. However these are not considered skilled activities." (Geetha, "The Tamil Nadu Construction Workers Union" in "A Space within a Struggle", edited by Ilina Sen, Kali for Women, 1990.)

Kaveri (Joseph and Prasad, 1993) notes that in Tamil Nadu women and children on worksites are called *chithals*, literally small people. Male workers on the other hand are *periyal* or big people. On large construction sites, *periyals* act as watchmen over the other labourers. They often have the responsibility for curing operations at night that require watering freshly laid cement at intervals so

that it sets without cracking. The *periyal's* wife is expected to help him with this job but it is he who gets paid for it (See BOX 10).

BOX -10

Double Burden, Undervalued Role

M.S. Kaveri, who researched the lives of construction workers in Tamil Nadu comments that women's multiple tasks are not recognized and their abilities are undervalued, leading to a biased "gendered understanding of women's roles, potential, capabilities and work intensities at home, in the workplace and in the trade union movement."

"In a construction worker household, tasks are rarely shared. It is exclusively the burden of the women of the house to cook and feed the family. This apart, fetching water, procuring fuel, food grains, meeting expenses of school fees if the child/children are school-going, of buying books and other such articles; meeting the medical expenses if there are older members in the family who need medical attention and such other exigencies are all once again women's responsibilities.

Where both the male and female members of a household are employed, they are likely to be working as *periyal* (literally big person) and *chithal* (small person) respectively. *Periyal-chithal* family teams are often employed in sites and live there. In such instances, the husband will double as "watchman" also. In his work as watchman, it becomes the duty of the wife to assist him. A watchman is responsible for the articles on the site as also for the job of 'curing'. In this his wife will assist by fetching water from storage to the place where the watchman is standing. Sometimes the whole job will be performed by the woman herself.

Seldom does she receive any remuneration for the additional work done in helping her husband. Only the husband receives the wages. Women's work is seen as helping to add to the husband's income. The fact that this help is substantial and that she does this along with endless chores at home where she receives no help from her husband, remains unrecognized and therefore, this work goes under or unremunerated.

Where women earn or where they are sole earning members, I found them spending very little for their personal needs every day. These were for tea/coffee, betel and an occasional dose of tobacco to kill their appetite and help concentrate on their work. The rest of the earnings were all for home needs. In the case of men, anywhere up to one-third if not more, of their daily wages were for personal needs. These included expenses for bidis/cigarettes, betel and tobacco, tea/coffee, cinema, alcohol and frequent purchasing of lottery tickets.

Despite earning and contributing substantially to the family, women rarely had the freedom over what they earned, neither would they receive any respect or recognition for all their contributions."

Sexual Harassment at Work

Kaveri also comments on the sexism inherent in the fact that masons rarely allow their wives to work. Withdrawing them from the workforce signifies elevation of social status. It also ensures that the wife is more dependent and dependable. The same masons, who often have a team of men and women working under them, usually prefer to employ younger women whom they may exploit sexually.

The insecure nature of employment, particularly for women, creates a vicious trap in which women are often forced to please a sub-contractor in order to get work. Husbands resent these relationships and may use them as an excuse to desert their wives.

Kaveri found that, "Women workers in the construction industry are also largely victims of desertion by their spouses. This has led to a high incidence of women-headed households in the industry which are more poverty prone and vulnerable."

— Excerpts from *"Women, Work and Inequity - The Reality of Gender"* edited by Cherian Joseph and K.V. Eswara Prasad, National Labour Institute, 1995.

In most towns and cities there is intense competition for construction jobs, particularly where workers are hired daily from the *chowk* or *naka* — the crossing or other open place within a busy market area which acts like an informal employment exchange where workers stand around in hopes of getting work for the day. Women who wait in the *chowks* often find themselves leered at by prospective employers and subject to various indignities. Contractors prefer younger women, both because they can work faster and because they are more attractive. Sexual exploitation is rife, given the insecurity of a daily wage system.

The majority of women construction workers fall into the reproductive age group and it is common for women to work right through a pregnancy if work is available. The hard work, poor living conditions and the demands of childbearing leave them in poor health (See *BOX 11*).

BOX - 11

The Burden of Ill Health

An ILO study makes the following observations on the health status of women construction workers:

"A study of construction workers in India sums up the situation of women workers thus:

'Women workers in the construction industry do the most strenuous and 'unskilled' jobs like brick-making, stone quarrying, assembling of construction materials, lifting of stones, bricks and cement, etc. Despite their principal role in the construction industry they are not considered as the main workforce. Employers generally consider them as mere helpers and give them less wages than the male labourers. Discrimination never ends at the wage levels. The amount of physical hardships

and their consequent effects upon the health of women, especially to pregnant women and lactating mothers are important issues. Carrying heavy loads up ladders and over uneven surfaces can cause spontaneous miscarriages; there is no provision of maternity benefits and crèche facilities for women construction workers. Sexual harassment of women workers in this industry is also quite widespread' (PRIA, 1984).

Most of the studies undertaken since the 1980s point to the poor health of women construction workers (Manohar, 1983; Sinha & Ranade, 1975; Mobile Crèches, 1987). Some of the health problems mentioned by these studies include: severe muscular pain, intestinal problems, gastro-enteritis, fevers, coughs and colds, aches and pains. According to a study by Mobile Crèches, some of these could actually be more serious ailments like pneumonia, tuberculosis, leprosy, etc. (Mobile Crèches, 1987, pp.33)

By and large, all the studies have documented that, women have to work almost till the last day of pregnancy, and come back soon after delivery. Infant deaths are also very high, a large number occur before they reach the age of one year. Most of the studies also emphasise that these workers lack access to health care services, despite the fact that they work and often live right in the middle of some large metropolis.

Accidents : Work related to the construction industry is one of the most hazardous, with serious risks involved, especially in physical terms and accidents. Most of the operations and tasks are labour intensive with non-existent or at best, inadequate safety measures. The quality of the materials used is often very poor and the industry as a whole, has not clearly identified and recognized the nature of risks involved. There has also not been a systematic analysis of accidents whereby preventive measures can be seriously undertaken. Workers are not given any training regarding health and safety, hence there is a greater incidence, as well as severity of accidents in this industry. This is true of men, women, as well as child construction workers.

While the real and substantive causes for this high rate of accidents are stated above, the immediate causes of accidents have been identified as follows:

- Failure or collapsing of scaffolding, centering or shuttering
- Improper guards
- Night work without proper lighting
- Inadequate care regarding fire and against electrocution
- Excessive noise
- Handling of heavy finished and semi-finished materials like metals
- Blasting
- Underground work.

Common Health Hazards : The immediate causes of other health hazards in construction workers have been identified as:

Cause	Effect
Cement dust	irritation to lungs, cancer and skin diseases
Plaster	irritation to lungs, eyes and skin; lung cancer
Wood burning	asthma and nasal cancer
Sand	silicosis
Working at heights	blood pressure
Sound	loss of hearing; stress; blood pressure
Heat	heat cramps and sun burns
Vibration	numbness of hands and fingers
Repetitive work	sprain, rheumatism

Source: DWCD (Feb.1988) – *Occupational health issues of women in the unorganized sector, GOI, pp.108*

— *Extracts on the Construction Industry from "Women Workers' Rights in India: Issues and Strategies— A Reference Guide," ILO, 1999*

Although various acts exist under which women are entitled to maternity leave and benefits, in practice they get no such benefits. Lactating women find it extremely hard to care for babies while doing a full day's work. They frequently hide from the contractors in order to feed their babies. Often, women are forced to leave babies and toddlers uncared for on the ground floor of a building while they climb up multiple floors of high-rises, balancing bricks or mortar on their heads. Keeping small children safe and clean in the middle of the dust and rubble on a worksite is a difficult task. Provisions for crèches exist but again these are breached and women are in no position to demand these rights.

BOX - 12

What the Shramshakti Report said:

"Women in Construction: ...The variability in labour absorption in construction workers is much more pronounced for women than for men. It has often been noticed that whenever there is any increase in demand for labour in this sector, the rise in the female employment rates is much greater than that of males. On the other hand, whenever there is any shrinkage in the workforce, the fall is more drastic in the case of female workers than of the males. It appears that women construction workers form a reserve army coming to the aid of the construction industry and are first to get retrenched when the work slows down.

Although the construction workers are covered under various acts like the Minimum Wages Act, The Contract Labour Act and the Inter-state Migrant Workers Act, these acts exist in paper only, in practice they are blatantly violated by the employers.

Several steps which are likely to help these workers include (i) stringent enforcement of the provisions of the laws, (ii) strict punishment for the violation, (iii) allowing trade unions and NGOs to file cases of violation of the labour laws, (iv) welfare programmes financed by the employers or contractors, (v) provision of educational training for upgrading their skills, (vi) designing of tools and equipments to make the work less hazardous and less arduous for women, (vii) provision of welfare facilities like crèches, medical doctor/mobile dispensary etc., (viii) organization of the women construction workers to protect their rights and fight against exploitation."

— *Extracted from "Shramshakti, Report of the National Commission on Self-employed Women and Women in the Informal Sector," June 1988*

Apart from working a full day it is women who are entirely responsible for buying provisions, cooking food and caring for children. Men rarely help with any form of housework or childcare. Women usually spend most of their earnings on the household while men, in typical working class fashion, keep aside money for tobacco, *bidi*, alcohol and other forms of entertainment.

THE LEGAL STATUS OF THE WORKFORCE

In theory, by the 1980s, some 25 laws governed the status of workers in the construction industry, ranging from the Inter-State Migrant Workers' Act to the Maternity Benefit Act, 1961 and the Equal Remuneration Act, 1976. In practice, however, not a single law was ever enforced. Usually, it is trade unions that push for enforcement of labour laws and report violations to labour officials. But unions are rare in this unorganized sector industry.

Activists who tried to organize construction workers realized that unionization is extremely difficult because of the shifting, impermanent nature of the work. The construction industry is practically the only industry where the workplace changes from day to day and so does the workforce. Activists puzzled over the problem and realized that the absence of a stable employer-employee relationship was the real reason for the failure of implementation of existing laws. These laws were designed for more conventional industries. They felt that the only way to crack this nut was to introduce some method of regulation of employment itself.

One of the few strong, independent unions in the construction sector, the Tamil Nadu Construction Workers Union (TMKTS), organized a national seminar in Delhi in November 1985 to discuss the situation of the workers and the lack of legal protection. The seminar concluded that the existing laws were inappropriate to the peculiar nature of the industry and therefore simply inapplicable. Plans were made to draft special legislation suited to the needs of the industry and its workforce.

A National Campaign Committee for Central Legislation on Construction Labour (NCC-CL) was formed. Justice V.R. Krishna Iyer lent his stature to the campaign by assuming its Chairmanship. A core group comprising activists, lawyers, trade unionists and labour experts was formed. The membership of the NCC-CL comprised various independent unions as well as concerned individuals as it also received the support, from time to time, of the central trade unions affiliated to different political parties. R. Geetha, a veteran trade unionist from Chennai, was the moving force behind the campaign.

The NCC-CL drafted a model bill and an accompanying scheme called the "Construction Workers' (Regulation of Employment and Conditions of Service) Act and a similarly named Scheme. These drew their inspiration from Maharashtra's Mathadi Labour Act, that regulated work in the ports and docks as well as some major markets where labourers head-loaded goods.

Various committees of the Union Labour Ministry had previously recommended that a law be drafted specifically for construction workers but no action had been taken on these recommendations.

The NCC-CL's model bill and scheme were presented at a workshop in Bangalore in July 1986 and discussed threadbare. Construction workers themselves participated in the process to ensure that the law was functional and comprehensive. The Bill and Scheme envisaged the setting up of tripartite boards at the centre and state capitals, comprising of representatives of employers, employees and government. The boards would register workers and employers and regulate employment, allocating workers from its pool of registered workers to particular sites, as required by employers. The board would receive wages from the employers and pay the workers. The board would also ensure that social security provisions such as contributory provident fund and gratuity, group insurance, medical facilities and maternity benefits are paid. Employers were expected to make contributions to ESIS, provident fund etc, provide some funds for the running of the boards and pay a levy - 2 percent of the cost of construction. This levy or cess was critical to the scheme, ensuring its financial viability.

Armed with the model bill and scheme, the NCC-CL stepped up its campaign. Justice Krishna Iyer invited a group of pro-labour MPs to discuss the proposal and also presented the model legislation to the Labour Minister. Copies were sent to the chief ministers of the states. Some 40,000 signatures of construction workers of different states were collected on a petition and a rally of various unions was held in New Delhi in November 1986. A delegation formally presented the petition and the model legislation to the Lok Sabha Petitions Committee.

Meanwhile the Labour Ministry had set up a Tripartite Working Group, comprising representatives of builders, employees and the government to recommend a law for construction labour. There was serious disagreement among the builders and union representatives and within the unions themselves, with the builders agreeing only to some statutory welfare and safety arrangements rather than regulation of employment and registration of workers. In the face of such disagreement, the working group could not produce a final report.

In December 1988 the Labour Minister introduced in the Rajya Sabha a draft legislation for the sector. The NCC-CL critiqued it because it did not provide for regulation of employment and recommended boards that were merely advisory. There was provision for registering employers but not workers and the focus was on health and safety, with some provisions on wages and accident compensation. Another problem was that the bill was restricted to sites where 50 or more workers were employed.

That very month, the Petitions Committee called the NCC-CL to give evidence and it presented an eloquent critique of the proposed legislation. The Petitions Committee recommended that the bill pending in the Rajya Sabha be withdrawn and a more comprehensive law be introduced.

In late 1989, some 400,000 signatures were collected from workers as well as prominent citizens, politicians and legislators in favour of a comprehensive law for the construction sector. In March 1990 20,000 workers marched to Parliament. Another rally was held in March 1992. Agitation and dharnas were held in several state capitals. In October 1995 the Government issued two Ordinances whose provisions were more favourable to workers than the previous Bill. In January 1996 these Ordinances were re-promulgated. Finally, on August 19, 1996, the Indian Parliament enacted "The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996" and "The Building and Other Construction Workers Welfare and Cess Act, 1996".

Construction workers and their representatives saw this as the successful culmination of a twelve year long campaign. They welcomed the enactments, although they have reservations about some of the provisions. They had managed to lobby for certain amendments before the Acts were finally passed, including a provision to ensure that the Cess collected went to the state governments rather than the central government, so that state level Boards could become financially viable. They were also able to ensure that the Acts were extended to include smaller construction projects and worksites that employed fewer workers.

THE TAMIL NADU EXPERIENCE

In Tamil Nadu the TMKTS had been organizing construction workers on a sustained basis since 1979 and was involved in drafting a model bill for construction workers of the state in 1981. Two decades of sustained agitation, processions, picketing, even striking work, have yielded gradual results, including two state level Acts to benefit workers and welfare measures such as payment of immediate accident compensation of Rs 20,000 from the Chief Minister's Relief Fund for fatal accidents.

In 1983 a committee was set up to fix minimum wages for construction workers. In October 1983 the government also passed the Tamil Nadu Building and Construction Workers' (Conditions of Employment and Miscellaneous Provisions) Bill, but the unions considered it an inadequate and flawed law and organized mass protests against it.

In 1982 the Tamil Nadu Manual Workers' Act was passed by the state legislature and promised some relief for construction workers among other sections of labour. However, the Act was not notified

and remained inoperative for several years. It envisaged a welfare fund but there was no provision for levy from employers that would form the corpus for the fund. In the early 1990s mass agitation finally led to an amendment, imposition of a levy from builders, and application of the Act to the three cities of Madras, Madurai and Coimbatore. Boards were set up here and a Scheme announced to register workers, start a welfare fund and provide crèches, provident fund, group insurance and pension. Eventually, the Act became applicable to the entire state in 1976. When the two central Acts were passed, Tamil Nadu sought and received exemption on the grounds that it already had more beneficial legislation in place.

The quantum of benefits possible through appropriate legislation is evident from the Tamil Nadu experience. Here, workers who register with the State Welfare Board by paying a fee of Rs 25 are entitled to group personal accident insurance, financial assistance of Rs 2000 for the delivery of a child or for miscarriage, assistance for children's education and marriage and assistance to the family on the worker's death. Uptil October 31, 2000, for instance, the contribution collected by the State Welfare Board was over Rs 25 crore. As many as 2,63,262 workers had registered with the Board. Insurance benefits were paid for 58 workers who died in accidents or were injured – over Rs 55 lakhs was distributed as accident benefit.

However, there are shortcomings. By the middle of 2004, the Board had collected over Rs 70 crore as levy but it has not been paying the promised pension of Rs 200 per month as no Government order has been issued for this purpose. Nor is any assistance being paid for natural death if the person dies after the age of 60.

THE KERALA EXPERIENCE

In Kerala construction workers belonging to the All India Trade Union Congress (AITUC) affiliated Kerala Construction Workers' Federation (KCWF) and other unions had long been agitating for legal protection. In 1982 they secured an Accident Relief Scheme and were instrumental in the enactment in 1989 of the Kerala Construction Workers' Welfare Fund Act under which tripartite boards were set up. Subsequently, Kerala adopted the two Central Acts. The Kerala Board had upto April 30, 2000 collected Rs 23 crores, registered 6 lakh workers, and paid Rs 6 crores in benefits including pensions, family pensions, medical, ex gratia and accident benefits.

In Kerala, a worker who has been registered for one year is entitled to pension on reaching 60 years of age.

STATUS OF IMPLEMENTATION OF LAWS

Since 1996, when the two central Acts were passed, NCC-CL and other unions have had to engage in a persistent lobbying effort to ensure enactment of the laws. It is regrettable that the state governments have not cared to immediately take steps towards implementation of these welfare legislations.

Once an Act is passed, it has to be notified. Subsequently, as per the procedure laid down in the two central Acts, an experts committee has to be set up to frame rules under the Act, the rules have then to be adopted, followed by translation into Hindi and local languages. The next step is to set up a Tripartite Board with representatives of the industry, the workers and the Government. A Cess Commissioner has to be appointed to collect the levy as per the Cess Act. Finally, employers and workers have to be registered with the Board. It is only when this infrastructure is in place that the workers registered with the Board become entitled to social security and welfare benefits.

It is a comment on the lethargy and sheer indifference of state governments that eight years after the enactment of the two laws, only six have moved substantially towards implementation. These six include the governments of Tamil Nadu, Kerala, Delhi, Pondicherry, Gujarat and Madhya Pradesh. Among these, Tamil Nadu initially sought an exemption as it was already implementing the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme 1994 under the Tamil Nadu Manual Workers (Regulation of Employment and Condition of Workers) Act 1982.

In **Delhi** although the Board was formed in September 2002 the registration of workers is still pending and only Rs 2 crore has been collected as Cess. In **Gujarat** only the Rules have been notified while the formation of the Board, registration of workers and establishments and cess collection is pending. In **Kerala** the Board is functioning but it is not registering migrant construction workers from adjoining States, nor has it been able to collect cess from Central Government construction sites. In **Madhya Pradesh** the implementation is at a preliminary stage.

The other States have made no substantial moves towards implementation.

ROLE OF NCW

NCW has supported the cause of women in the construction industry for over a decade. In 1994 the NCW undertook a public inquiry on women in the unorganized sector, with particular emphasis on the construction sector, at Madras and other places. Justice V.R. Krishna Iyer was on the jury at the public enquiry. The Commission endorsed the recommendation for tripartite Construction Labour Boards.

In 2003-2004 the Commission sponsored a series of five Public Hearings on the Status of Women Construction Workers, in the state capitals of Jaipur, Bangalore, Delhi, Mumbai and Patna. The Reports and recommendations of these Hearings are included in this document.

The Commission invited representatives of the Central and state governments to the Public Hearings. The then Union Minister for Labour Shri Sahib Singh Verma attended the Delhi Hearing. The Commission subsequently sent the recommendations emerging from the Hearings to the central and state governments, asking for their support and intervention.

THE FUTURE

If anything, the situation of construction workers is worse today than before, as globalisation has brought with it the perils of mechanisation and loss of jobs. Although there has been substantial

growth in the construction sector in recent years, this growth has actually led to a decline in the availability of jobs. The large construction companies can afford giant machines that work at high speed, replacing manual workers. A classic example is New Delhi's Metro Rail Corporation that uses a small number of workers to execute a mammoth project.

Women construction workers are being forced to take on other kinds of work to tide over periods of unemployment, for instance, petty manufacturing or sewing. These home-based occupations usually fetch lower wages than construction work. This shift to other occupations shows up clearly in the Jaipur sample survey of women workers conducted for the National Commission for Women by the Bandhua Mukti Morcha's Rajasthan unit.

As many as 65 of the 490 women surveyed reported that they have had to take on other work. For instance some women do home based piece work such as tailoring or sewing sequins on garments, earning a pittance in the process. Others have resorted to domestic work in well-to-do people's homes.

Serious reconsideration of labour-displacing technologies and policies is required. There is also a need to give older, retiring women training in alternative income generating skills. Given the prevalent insecurity and underemployment among workers, it is imperative that social security measures be extended immediately.

It is of utmost urgency that the state governments implement the social security and welfare laws that were enacted in 1996, without further delay. The tendency of each state government to 'reinvent the wheel' by setting up committees to draft state level rules is regrettable. Under Section 60 of the main Act, the Central Government is expected to direct the State Governments and Board in the implementation of these Acts but so far it has not been done satisfactorily. The Central Government needs to urgently develop model rules, which should be enforceable in all States and Union Territories if they fail to draft their own rules within a time limit of six months.

If necessary the Delhi rules can be adopted as model rules. These rules also have the advantage that they have already been translated into Hindi.

The process of implementation of the two Acts has thrown up questions about the viability of some of the provisions. These deserve examination. A concept note prepared for the NCC-CL by Sri T.S. Sankaran, former Additional Secretary in the Union Ministry of Labour, on these issues is enclosed in this document (See BOX 5).

The Construction Workers' Acts have left out some sections of construction workers. The construction unions want all workers involved in mining, loading and transporting materials for construction to be covered by the Acts. For example, brick and lime kiln workers need to be covered by the Construction Workers Acts. Sand and stone mining workers also require coverage. Again, there are many construction workers in areas where the Factories Act and Mines Act are in operation but they are not covered by either of these Acts, so it is recommended that they be included under the Construction Workers Acts. Numerous other amendments are needed.

A major shortcoming of the Acts is the absence of appropriate provisions for regulation of employment through Boards and powers of dispute resolution. Disputes over non-payment or underpayment are commonplace in the industry and a mechanism to address these is urgently required.

Some shortcomings of the Acts are becoming evident in the process of implementation. However, implementation itself has been so slow that not all these are as yet evident.

As a recent NCC-CL circular puts it, "We expect that the implementation process will highlight the 'limitations' of the Acts and we will have a larger team of 'Registered Construction Workers' from all the States and Union Territories to demand amendments to remove these 'limitations' and bring these acts closer to the 1986 proposal of NCC-CL.

In Delhi, for instance, as speakers at the Public Hearing pointed out, a major hurdle in registering a worker with the Welfare Board is the requirement of a birth certificate or other documentary proof of age. Workers, particularly women, tend to be uneducated and have neither birth certificates nor school certificates that attest to age. The option, according to the rules, is certification by a government doctor not below the rank of an assistant surgeon in a government hospital. It is difficult for workers to obtain such certification.

The Nirman Mazdoor Panchayat Sangam has repeatedly demanded that construction workers should be covered by the Employees State Insurance Act and the Provident Fund Act, through the Welfare Boards. For this purpose, the two Acts would require to be amended.

Another problem that is looming large is the fact that the growing retrenchment in the sector is forcing workers to retire at an earlier age. On construction sites, both women and men age early because of the hard work and the rough working environment but the women also suffer the consequences of repeated childbearing and rearing, making them weak and unable to work for too many years. Further, employers prefer younger women as they are more agile and able to work harder.

One consequence is that it is becoming rare to find a woman on a construction site who is in her 40s. In Delhi, for instance, only 10.5 percent of women surveyed reported that they were over 40 years old and most of these were 41-45 years old. Only 4 percent of women were in the 46-60 years age bracket. There is an obvious need for retraining in new income generating skills for women in the middle age bracket, both within the industry and outside it.

Provisions for pension under existing laws and rules apply only to those over 60 years of age and as such are inappropriate for women. A woman who is forced to leave the industry at age 40, because she is overage by industry standards will, according to current Delhi rules, have to pay her monthly contribution of Rs 20 (Rs 240 annually) every year for the next 20 years to be eligible for a paltry pension 20 years later. The age of pension for women will have to be revised, keeping in mind the peculiar nature of the industry. This is a problem that requires serious attention.

There are several such hurdles in actual implementation of the laws that need to be removed if the construction workers are to get justice.

WHAT DO WOMEN WANT?

At all the five Public Hearings and in reply to questionnaires where they were asked what they wanted from the government and society, women construction workers said they wanted the society and the government to ensure regular decent Work for themselves and their husbands, Education for their children and pucca housing for their families. They wanted minimum wages and equal remuneration.

These are the basic needs that all aspire to today and that a government pledged to democracy and social justice must strive earnestly to provide.

PROCEEDINGS OF THE PUBLIC HEARING ON THE ISSUES OF CONSTRUCTION LABOUR IN RAJASTHAN

A Public Hearing was organised by the National Commission for Women, New Delhi and the Bandhua Mukti Morcha, Rajasthan on 21-12-2003 at Maharashtra Bhavan, Jaipur.

Batches of women construction workers began collecting at the chowks in the city from early morning and began arriving at the venue of the Hearing from 9.30 a.m. onwards. The last batch arrived at 11.30 a.m. They were registered when they arrived and offered tea and snacks. The chowks or chowkatis as they are locally known are the places in the city where construction workers collect daily and wait to be hired by employers. The major chowks from where workers came to the Hearing were Vaishali, Nursery Circle, DCM, Akbar Raod, Mansarovar, Nath ki Thadi, Gujar ki Thadi, Chandpol, Vishwakarma Industrial Area, Vidyaghar Nagar etc.

Representatives of construction workers also came from distant towns of Rajasthan state such as Alwar, Ajmer, Tonk, Bhilwara and Dausa.

The revolutionary songs of Morcha workers Narendra Sharma, Sangeeta and Aasen Khan marked the start of the Hearing at 11.30 a.m. Rajasthan Nirmana Mazdoor Panchayat Sangam Secretary Hemlata Kansotia introduced the subject of the day's Hearings which was to highlight the status of women in the construction sector and the inquire into the non-implementation of two Central Acts for the welfare of construction workers. The welcome address was given by the president of the state unit of the Bandhua Mukti Morcha, Rajasthan, Rajesh Yagyik, who clearly spelt out the objectives of the Hearing and thanked the National Commission for Women for its support.

NCW member Nafisa Hussain inaugurated the Hearing. In her inaugural address she stated that the Government of India consults the NCW before formulating policies and laws concerning women. In turn, the NCW consults women's groups and organisations to identify their problems and needs and makes appropriate recommendations to the government. She said that it was in this context that the NCW had sponsored the Public Hearing of construction workers and that women should speak out openly, so that their problems could be conveyed to the government authorities.

The Public Hearing began with the testimonies of construction workers. The first to testify was Bhuri who said that drought had forced her to migrate from Tonk to Jaipur three years ago in search of work. She said the major problems she faced were the practice of paying women lower wages than men and the rampant sexual harassment.

Santosh from Ajmer said that because of the shortage of employment she cannot afford to send her three children to school and they are growing up uneducated. Sunita, from Vaishali chowk, complained that there were no facilities at the chowk, not even place to sit or stand and wait for work. Young Mithilesh said that she frequently faced sexual harassment from thekedars and had to leave the job.

Middle aged Sita said that she had been labouring in Jaipur for twenty years but still did not possess even a ration card. Finding employment was becoming difficult because of her age.

Munni of Mansarovar complained that she was being harassed by a government appointed thekedar at a worksite of the housing board. When Chitra Rathod of the Commission questioned a supervisor of the housing board project, who was also present at the Hearing, he had no satisfactory reply to give.

Nathi Bai of Nath ki Thadi said she had bought a piece of land from a society but the society is not giving her the plot. Her husband, she said, has a mental disability.

Kamla, 20, complained that a thekedar exploits her economically and physically. Among the other women who spoke were Uma, Suva, Kamlesh, Savitri, Prem, Panchi, Phulwati, Godha, Kalyani and Chhoti also spoke about the problems they faced in the construction industry.

A male construction worker Govind Banjara also addressed the gathering and told them that over the past twenty years thousands of Banjara caste workers have been labouring in Jaipur but they have no ration cards, no voting rights, no houses of their own, either kuccha or pucca. Bajrang said that construction workers had no insurance or pension and get no relief from any source in case of an accident.

Rajasthan Nirmana Mazdoor Sangathan Secretary Harkesh Bugalia said there was an urgent need for a stricter law on payment of wages. He expressed the hope that such public hearings will bring much needed relief to workers.

Dr. Ram Pande, who is project officer of the state Labour Department's bonded labour division, said that there are three types of construction workers; those labouring on government projects, those working for private builders and those working individually. He said that within these categories 20 percent were bonded labourers and 20 percent of women were victims of sexual exploitation.

The president of the Rajasthan state unit of the People's Union for Civil Liberties, advocate Prem Krishna Sharma said it was essential to enact an Employment Guarantee law and to register all migrant workers under the Inter-State Migrant Workers' Act.

Labour Commissioner Rajendra Bhanavat said that the true measure of social progress is not telephones, railway lines, roads, buildings or bridges but increase in people's incomes. He stressed that merely enacting laws for workers is not enough, the important thing is the implementation of laws. He said laws would only be implemented if the working class asserts its rights.

Rajesh Yagyik, president of the Bandhua Mukti Morcha, Rajasthan raised the demand that brick-kiln workers and mine workers should be included in the legal definition of construction workers. He said that in the era of globalisation if capital has the right to flow without checks, labour too must have the right to migrate freely. He stressed the importance of organising proper educational facilities for workers' children as that alone is the solution to the problem of child labour.

The chief speaker at the Hearing, Swami Agnivesh, the national president of the Bandhua Mukti Morcha hoped that Rajasthan's new woman chief minister would understand the problems of construction workers and ensure the immediate implementation of the two central Acts of 1996. He estimated that if the one percent cess stipulated under the Cess act had been collected, a massive amount of Rs 350 crore would have been mobilized by this time. He called upon the chief minister to collect the cess and spend it on the welfare of workers.

Commenting on the level of minimum wages, Swami Agnivesh demanded that the wage should be equivalent to the wage drawn by class four employees of the government. He said that workers should be assured of at least 240 days of employment in a year. He called upon the working class to abstain from vices like smoking, drinking, gambling and playing the lotteries. He urged them to give up practices like bearing large families and marrying off children and advised them to educate their children. He announced that the Bandhua Mukti Morcha would continue its campaign until a tripartite Workers Welfare Board comprising representatives of workers, employers and the government was set up.

The Public Hearing was presided over by former Rajasthan Chief Justice N.L.Tibrewal. In his presidential address Justice Tibrewal identified rapidly increasing mechanisation as a leading cause of unemployment. He said the government should make employment generation its foremost priority. He said that the minimum wage must be linked to the price index and that an unemployment allowance should be given to workers.

Among the prominent invitees at the Hearing were freedom fighter Ugamraj Mohnot, advocate P.L.Mimroth of the Dalit Human Rights Centre, litterateur Professor Surendra Upadaya, Arya Samaj leader Satyavrat Samvedi and several representatives of the print and electronic media.

Morcha members Kuldeep, Devendra and Snehlata Sharma organised lunch for the gathering. Dinesh Dhruv organised the Hearing. The Hearing continued post-lunch till 5 p.m.

Major Issues and Suggestions that emerged at the Hearing:

1. It became evident at the Hearing that the majority of construction workers are forced to migrate from their villages in search of work and become displaced. Years later, they still do not have access to ration cards and voters' identity cards. They build houses for others but have no houses of their own. They are forced to rent houses or live in half-built houses of the Housing Board or put up a jhuggi or tent on barren land.

The lack of ration cards means that they lose out on all the benefits available through various government schemes. Politicians ignore their problems and demands since their names do not figure on voting lists. They are forced to live in insecure, inhuman conditions because of the lack of housing.

Experts present at the Hearing were unanimously of the opinion that construction workers should be registered and given identity cards. Every construction worker's family should be entitled to a BPL card and given voting rights. Housing loans should be made available on reasonable monthly installments.

2. Adequate facilities at labour market places: If facilities are available for sale of goods in the markets, it stands to reason that facilities should be made available for workers to sell their labour power. Thousands of workers assemble at crossings in cities like Jaipur to find casual, daily work. Traffic policemen often force them to move off. If they stand in front of someone's shop, the shopkeeper shoos them off.

There is no drinking water available at these sites and no toilets either. Women and the children who frequently accompany their mothers are put to great inconvenience. In summer the situation is horrible, as there is no shade and nowhere to sit. Even drinking water has to be purchased from shopkeepers.

It was recommended that places where workers gather in search of employment should be notified and basic facilities such as shade, provision for seating, drinking water and toilets should be provided at these places by the state government.

3. The majority of women workers complained that they are paid lower wages than men. The experts recommended strict implementation of the Equal Remuneration Act and Minimum Wages Act. They said that the government must enact an employment guarantee law and make work available to all.
4. No woman construction worker is currently getting any maternity benefits. It was recommended that every construction worker who has two children should be given at least four months' maternity benefit by the state government. Thekedars or builders are supposed to provide a creche at every site where women are employed. Adequate provision must be made for schooling of children so that they do not become child labourers. It was also recommended that at least 20 % of jobs on government construction sites should be reserved for women, because they are discriminated against and denied work by thekedars.
5. The plight of older construction workers became evident at the Hearing with many of them testifying that they find it difficult to get work as employers prefer younger women. The experts present pointed out that if families of government employees can be given pensions even after the employees are dead, should not retired workers be given a pension to help them survive?

They demanded that insurance, pension and other benefits be made available to construction workers.

They were of the opinion that these benefits could readily be funded if the two Acts of 1996 were implemented and the one percent cess collected. Construction Workers' Welfare Boards should be set up immediately so that overdue benefits can be made available to them.

6. Disputes over issues of payment are frequent in the construction industry and it takes months to resolve these through the labour courts. The experts present recommended that tripartite boards with representatives of employers, workers and the government be empowered to promptly resolve all such disputes.

STATUS OF WOMEN CONSTRUCTION WORKERS IN RAJASTHAN

Analysis of responses to Questionnaire:

1. A total of 490 questionnaires were sent in.
2. The interviewees fell into the following broad occupational categories:

51	Road workers
26	Other workers
39	Silai workers
374	Bhavan Nirman/Beldari workers
3. The questionnaires were filled by interviewing women from various localities and 'chowkatis' of Jaipur such as Shastri Nagar, Chand Pol, Vaishali Nagar and DCM chowkatis., A large number of questionnaires were filled in Alwar town, most of these being of road workers, and there were a few from other places.
4. It was evident that the vast majority of women construction workers do beldari or 'unskilled' work such as headloading bricks, cement, concrete and other material on sites. 51 were classified as road builders. A large number of women who had previously been in the construction industry said they were currently doing other work, either because there was no employment in construction or because they were older and did not get construction jobs. Of this group of 65 women, 30 were engaged in 'silai' or sewing and tailoring. Another 26 were engaged in a variety of occupations, including gemstone work, domestic work, making papad, mungori, weaving etc.
5. The vast majority of women are in their twenties and thirties. Some are in their forties. None of the women surveyed who said they were currently primarily occupied in construction work are over 45 years old. However some of these older women were found in the category of those employed currently in sewing and other occupations. A few girls age 18 were included in the survey. The questionnaires indicate that there are child labourers on the sites too but these were not interviewed.
6. The average wage for beldari is Rs 50-60. Sewing and other jobs fetch much less.
7. Payment is usually daily. A few get it weekly. Some mention that at times they get paid only after 10-15 days.

8. No deductions mentioned at all.
9. Men invariably earn more for similar work, usually Rs 10 more per day. On average this works out to 20 percent higher wages.
10. On average, employment is available for 10-15 days in a month.
11. The majority say mechanisation has taken place in the industry. A few mention concrete mixers, lifts, digging machines.
12. Since underemployment is the norm, the question about how women cope during periods of unemployment was relevant. It seems they adopt different strategies. The vast majority borrows money to tide over these times. Only 17 said they live off their savings – a dismal reflection on the limited ability to save given low wage/employment levels. Only 5 said they resorted to other work. 13 said they cut down on expenses and of these nine explained that they cooked vegetables only once in two days during periods of unemployment.
13. Only 14 women mention accidents. One says she broke her hand.
14. None of the women have ever got any maternity relief.
15. None of the women have benefitted from any childcare facilities.
16. Only 61 women said that they educated their children. 32 said that their children work along with them on the construction sites. 11 had no children.

This means that children in 386 households get no education. This works out to a dismal figure of over 85 percent children growing up uneducated. Yet, in practically every questionnaire, a major demand of the women is education for children. Some mention specifically that they cannot afford education. However, access to education by a migrant population who moves frequently could be another cause, suggesting that specific schooling facilities need to be made available. These could include building schools near construction workers' bustees, arranging free buses to take children to schools wherever the sites are in suburban areas that are distant from schools, and also residential schools. Otherwise another generation will grow up as handicapped as their parents because they lack basic literacy and education.

Some 32 women said their children work alongside them – 6.5 percent of the total interviewed. Although no ages were mentioned, this suggests the prevalence of child labour on sites.

The overwhelming majority of children accompany their mothers to worksites and are exposed to the hazardous conditions there. There are obviously far more children than adults on the sites, yet, as the replies to Q. No. 15 indicate, there are no childcare facilities available on sites. There are no crèches or anganwadis for infants, and no schools for older children.

17. As many as 341 women (69 percent) live in rented housing, often in jhuggis, paying Rs 250-350 per month as rent. This dispels the notion that construction workers have no housing costs and live free on worksites. Apart from those who live on rent, 146 had their own homes, 63 of these being pucca houses and 83 kuccha houses. One woman mentioned that they squatted on land illegally, living under a tarpaulin sheet. A widow said she was struggling to pay the loan she borrowed to build her house and has had to rent part of it.
18. All the women mention regular employment as their first need. Some, particularly those in sewing and other occupations want better wages. Some mention the need for regular, daily payment of wages. All the women specify education for children as a basic need. Another basic need mentioned is a pucca house of one's own – a few added bijli-paani to this list.

THE ISSUES OF CONSTRUCTION LABOUR IN KARNATAKA

Organised by
NATIONAL COMMISSION FOR WOMEN, NEW DELHI,
and
KARNATAKA STATE CONSTRUCTION WORKERS CENTRAL UNION (KSCWCU)

On 12-1-2004 at SCM House, Mission Road, Bangalore.

Time: 2.00 p.m. to 5.00 p.m.

PROGRAMME SCHEDULE

1. Welcome : Mr. Jeevanand,
Organising Secretary,
KSCWCU.
2. Introduction about the Public Hearing on the Unorganised Sector of Labour. : Dr. Poornima Advani,
Chairperson,
National Commission for Women,
New Delhi.
3. Submissions from KSCWCU : Mr. N. P. SAMY,
President,
KSCWCU.
4. Submissions from the Victims of : a) Accidents – Death and Injury
b) Wage Disputes
c) Contract Disputes.
d) Social Security.
5. Responses, Recommendations of the Public Hearing : Hon'ble Jury will address.
6. Vote of thanks : Mr. C. Palani Kumar,
Genl. Secretary,
KSCWCU.

SUBMISSIONS MADE IN THE 'PUBLIC HEARING ON THE ISSUES OF CONSTRUCTION WORKERS' HELD ON 12-1-2004 AT BANGALORE JOINTLY ORGANISED BY NATIONAL COMMISSION FOR WOMEN(NCW), NEW DELHI AND KARNATAKA STATE CONSTRUCTION WORKERS CENTRAL UNION(KSCWCU) TO THE HON'BLE JURY PRESENT DR. POORNIMA ADVANI, CHAIRPERSON, NATIONAL COMMISSION FOR WOMEN, SHRI. R.K.A. SUBRAMANYA, SECRETARY GENERAL, SOCIAL SECURITY ASSOCIATION OF INDIA, DR. SUPRIYA ROY CHOWDHURY, ASSOCIATE PROFESSOR, DEVELOPMENT ADMINISTRATION, I.S.E.C., BANGALORE, DR. DEVAKI JAIN, ECONOMIST AND FORMER MEMBER, STATE PLANNING BOARD, GOVT. OF KARNATAKA AND SHRI G. L. GOPALA KRISHNA, FORMER DIRECTOR, EMPLOYEES STATE INSURANCE(ESI).

Submissions made in the 'Public Hearing on the Issues of Construction Workers' held on

I. ABOUT THE ORGANISATION

Karnataka State Construction Workers Central Union(KSCWCU) is an independent Trade Union working for the cause of construction workers for the past 20 years. KSCWCU has a membership of more than 35,000 and is affiliated to National Federation of Construction Labour(NFCL). KSCWCU played a pivotal role in the enactment of a Central Legislation The "Building and Other Construction Workers (Regulation of Employment and Conditions of Service)Act 1996, as one of the founding members of National Campaign Committee for Central Legislation on Construction Labour(NCC-CL) under the leadership of Justice V.R. Krishna Iyer and National Federation of Construction Labour(NFCL) as well created political pressure through struggles and lobbying during the Prime Ministership of Shri. H.D Deve Gowda for the passage of the Bill in the Parliament.

II. INTRODUCTION

Construction activity is an integral part of the country's infrastructure development and industrial progress. it includes schools, hospitals, offices, houses and other buildings; Urban Infrastructure such as water supply, sewerage and drainage; highways, roads, ports, railways, airport, power systems; irrigation and agriculture systems; telecommunication etc., In short, construction has become basic input for socio-economic development. Besides, construction generates substantial employment and provides a growth impetus through backward and forward linkages. It is essential therefore, that this vital activity is nurtured for the healthy growth of the economy.

The activities cover the entire length and breadth of our country. Most of these operations are seasonal and at time involves fluctuations in employment pattern. Despite the Constitutional safeguards, the construction workers are denied of even basic rights, amenities and social security benefits.

The main advantage of construction sector is that it generates employment and infact, it absorbs unskilled, semi-skilled and rural labour, and provides opportunity for seasonal employment thereby supplementing workers income from farming; and large-scale participation of women workers.

III. STATUS

A. The Construction Industry

The construction industry has major linkages with building material industry, since the construction material accounts for sizeable share of the construction industry. These include sand, cement, steel, bricks, tiles, fixtures, fitting, paints, aluminum, glass, plastics, petro products, timber etc., The construction industry is the largest employers in the country. In 1999-2000, it employed 17.62 million workers, a rise of 6 million from the year 1993-94. The sector has also recorded highest growth rate in generation of jobs in the last two decades.

The following are the features on the construction industry:-

- ❖ Construction Industry occupies a prominent status in the National economy of the country.
- ❖ Almost all development projects and programmes depend on this industry.
- ❖ Around 40 % of planned Allocation of funds is invested in this Industry.
- ❖ Highly labour intensive and employs vast number of workers.
- ❖ Number of Ancillary Industries such as Brick kilns, Tile factories, Stone quarrying, sand dredging etc/lime kilns, are inter-linked to this Industry.
- ❖ Contracting, Sub-contracting and Piece rated systems are very common in this Industry.

B. Working And Living Conditions

In the State of Karnataka, according to Census 2001 there are around 2,21,48,262 workers. Out of this total workforce, 2,03,76,401 workers are in the unorganised sector. According to TN Sofres Mode Survey in April 2003, In Bangalore city, More than 20% of the Unorganised workers are working in the construction industry.

The following points throws light on the working living conditions of the construction workers -

- ❖ The Construction Industry is managed by innumerable number of Contractors, Sub Contractors/ Labour Contractors etc. There are small, medium and large-scale companies.
- ❖ There is no permanent Employer and Employee relationship.
- ❖ Unlike in other Industries, the workers in this Industry move on from one work site to another as and when work is completed at one site, they move to another site to take up another construction activity. In this process, the employer changes. Consequently the construction labour is very casual and temporary.
- ❖ Work is generally carried out without written terms and conditions.
- ❖ Major works/Projects are governed by tenders/ written agreements.

- ❖ There is no security of job; workmen are employed whenever there is work on casual and temporary basis; no employment orders are issued.
- ❖ Workers are engaged through middlemen.
- ❖ Construction work is migrant in nature
- ❖ Employers/Contractors prefer to employ migrant workers so that they could be kept outside the purview of legal obligations. There are not even registered as per provisions of Inter State Migratory Act.
- ❖ By engaging migratory workers, the contractors/Employers will not have any kind of demands from workers even when they are denied of basic facilities such as toilets, drinking water etc.
- ❖ Engaging migrant workers have created a situation whereby unionisation of construction workers has become extremely difficult.
- ❖ This industry is capable of generating lot of black money
- ❖ The work being seasonal and subject to availability of Construction materials such as cement, sand, steel, etc. as well as weather conditions. It lacks continuity of employment
- ❖ The majority of work force being illiterate, they are not able to make proper claims in respect of wages, accidents and other related disputes
- ❖ The work is accident-prone and no proper safety measures are provided. Safety measures are not taken seriously by the contractors/employers.
- ❖ Accidents are just brushed aside and when it becomes unavoidable paltry sum is paid on ad-hoc basis as compensation.
- ❖ Workmen Compensation Act is inadequate
- ❖ Accident victims are denied of leave with wages and proper medical care.
- ❖ Due to lack of continuity in employment and low wages, majority of the workers live below the poverty line and their living conditions are appalling.
- ❖ Majority of the workers in cities/towns live in slums denied of everything that is humane and just.
- ❖ Their children are not having access to education due to poor economic background and their nature of work, which is migrant.
- ❖ There is no fixed working hours. They are made to work even on holidays such as Sundays, festival days and National holidays. Neither overtime wages nor additional wages on holidays are paid
- ❖ Women workers are denied of Maternity benefits.

- ❖ The Provisions of Contract Labour (Regulation and Abolition) Act, Interstate migrant workers (regulation of employment and conditions of service) Act and Minimum wages act are not adhered by the Employers.
- ❖ There is serious gender discrimination in this Industry. Women workers are denied of equal wages for equal work. They are paid 20 % to 30% less wages than men.
- ❖ Employment of Child Labour is rampant in this Industry. They are paid paltry sum as wages for their hard labour

V. RECOMMENDATIONS & SUGGESTIONS

Frame State Rules for the Central Act, " The Building and Other Construction Workers (Regulation of Employment and conditions of Service)Act, 1996 Immediately

The above Central Act benefiting the Construction Labour was enacted in the year 1996. But still, the state government has not framed rules for the same and thus denied social security and labour welfare measures for the lakhs of construction workers in the state. The Karnataka State has also lost crores of rupees of income by way of levy from the construction industry. Hence we demand that the State government should frame the rules immediately and make this act enforceable irrespective of passing/enacting "Karnataka Unorganised Workers Welfare Bill".

VI. NEED FOR A COMPREHENSIVE LEGISLATION

In consideration of all the features and constitutional provisions as well as total failure of Labour Authorities to effectively implement the existing Labour laws, it is our considered opinion that there should be a comprehensive legislation with specific Provisions for Regulation of Employment, to regulate working and service conditions, for ensuring atleast minimum employment guarantee and for providing basic amenities, health and safety measures and for providing social security benefits. Such a comprehensive legislation could pave the way for social justice and sustaining human rights of the workers

In the light of the facts highlighted in the proceeding paragraphs and with a view to ensure that social justice and human rights are extended to these toiling workforce; We suggest the following measures:-

Constitution of Tripartite Boards

Statutory Autonomous Tripartite Boards be constituted

- ❖ To regulate the employment, conditions of work and services
- ❖ To provide social security & labour welfare measures
- ❖ To provide minimum employment guarantee
- ❖ To provide health and safety measures,

Irrespective of number of employees working with establishments/ contractors etc and the total cost of the construction all the employers, establishments/contractors/sub contractors and individual workers other than those covered by other acts should be brought under the purview of the Act.

The Ancillary Industries such as Brick kiln, Lime kiln, sand dredging etc (which is not covered by other legislations) should be brought under the purview of this Act.

The term of the Board shall be three years. The nominees of Government and Employers and Experts etc in the field and workers representatives will be the members of the board.

The total number of workers representatives shall be 50% of the total strength of the Board. The chairman of the Board shall be the worker's representative. The representative of the Government, Employers, Experts shall be nominated by the Government and workers representatives shall be elected by registered construction workers through a secret ballot.

The Board shall be empowered to fix wages and to review it periodically. It shall evolve its own mechanism to resolve the disputes arising between workers, workers and employers concerning wages, service and working conditions amenities and benefits etc. However any dispute arising between workers/Employers and the board shall be referred to Labour Court. The board shall evolve its own mechanism by constituting a 'Dispute Resolution Council' headed by a judge.

The Board shall stipulate provisions for providing basic necessities such as drinking water, washing facilities, health and safety measures which are required to be adhered to by the employers at work place.

The board shall define the obligation of the Workers and Employers

- ❖ regulate the recruitment of workers maintenance of relevant registers by the employers.
- ❖ evolve terms and conditions of such employment including wages, hours of work, overtime wages, leave facilities, weekly and other holidays.
- ❖ Prohibit employment of children
- ❖ Prohibit gender discrimination in terms of conditions of employment, wages etc.

VII. SOCIAL SECURITY AND WELFARE MEASURES.

Regarding social security and other benefits, the board shall make provision for the following schemes:-

- a. Provident fund/pension on the lines of Provident Fund Act,
- b. Gratuity on the lines of Gratuity Act
- c. Medical facilities including outpatient/inpatient treatment, sickness/accident/maternity benefits etc on the lines of E.S.I Act.

- d. To provide Bonus on the lines of Bonus Act
- e. To provide creches
- f. To provide Health, Welfare and Safety measures
- g. To setup training centres to upgrade the skills of workers
- h. To provide financial assistance to build their own houses
- i. To provide housing sites through local bodies/ concerned authorities

For the purpose of covering these social security and welfare measures and for administrative expenses, the board shall collect a Cess at 2 % on the estimated cost of construction at the time of sanctioning the plan.

The board for the purpose of carrying out its responsibilities shall establish its offices at various levels such as Panchayats, Taluks, Districts, State and National levels.

Therefore, we appeal to you to consider the above Recommendations and Suggestions and Influence the Karnataka Government with your official capacities to introduce a Comprehensive Legislation to protect the interests of millions of unorganised labour in Karnataka.

REPORT ON PUBLIC HEARING OF WOMEN CONSTRUCTION WORKERS HELD AT NEW DELHI ON 7.2.2004

Two hundred and fifty women construction workers from Delhi's bastis and working class colonies attended a Jan Sunwai at the Gandhi Peace Foundation on 7.2.2004. The Chief Guest at the public hearing was the Honourable Union Minister for Labour Shri Sahib Singh Verma. He was received by Ms. Poornima Advani, Chairperson, National Commission for Women and members of the Nirmana Mazdoor Panchayat Sangam that had organised the public hearing.

The public hearing was conducted on the status of the implementation of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and Other Construction Workers Welfare and Cess Act, 1996.

The National Commission for Women had earlier sponsored similar public hearings on the issues of women construction workers in Jaipur and Bangalore. Two hearings are to be conducted in Patna and Mumbai shortly. A comprehensive report will be submitted to the Government of India subsequently.

A number of women workers and government officials testified before a panel comprising of former Chief Justice of the Delhi High Court Mr. Rajinder Sachar, Ms. Sunila Basant, Member Secretary of the National Commission for Women, Ms. Devika Singh, Member of the Delhi Board for Construction Workers and Mr. Sanjay Parikh, Advocate.

Among the officials who attended were Mr. Manoharlal, Director General, Labour Welfare and Mr. Suraj Bhan, Director of the Union Labour Ministry, Mr. Inderjit Mongia of the Delhi Development Authority and Mr. J.S. Negi, Member Secretary of the Delhi Building and Other Construction Workers Welfare Board.

Mr. Subhash Bhatnagar, Secretary of the Nirmana Mazdoor Panchayat Sangam, who is also a member of the Delhi Board, informed the gathering of the present status of implementation of the two Acts of 1996. He said that while the Board had been set up a year and a half ago, its work is proceeding at a very slow pace. Currently, it is headless. Since the death last year of Labour Minister Deep Chand Bandhu no new Chairperson has been appointed in his place.

Mr. Bhatnagar said that so far only a few employers have been registered with the Board and a paltry sum of less than one crore has been collected from them as cess. Given the scale of construction activity in the city, the cess should have yielded a collection of over Rs 100 crore by now. In the absence of cess collection, the Board cannot provide construction workers the promised social security

benefits.He said that the machinery for cess collection such as a Cess Collector, Assessing Officer and Appellate Authority still has to be appointed.

He also informed the gathering that virtually no registration of workers had taken place because conditions stipulated under the Delhi Rules for age proof, such as school record, birth certificate, certificate from medical officer not below the rank of assistant surgeon in a government hospital. Officials were reluctant to register workers and had not completed necessary procedures, such as printing receipts for collection of registration fees. In the absence of receipt books, workers who approached the Board were asked to bring demand drafts of Rs 25 as registration fee and Rs 60 as quarterly contribution. Such demands for documentary proof and complicated procedures are rendering registration impossible.

Justice Sachar, Chairperson of the Jan Sunwai, asked the Director General of Labour Welfare for his opinion. Mr.Manoharlal said a simple declaration of age should be adequate and that the entire procedure should be simplified.

Justice Sachar said the non-collection of cess is a big scandal and that officials responsible should be hauled up. He said the MCD should answer for such criminal non-performance. He said the Board should make a formal statement on the issue. Under the Right to Information Act, government departments like the DDA can be asked what they had spent on construction activity over the past year and what they had given as cess.

Testifying before the Union Minister for Labour Shri Sahib Singh Verma many women construction workers said that they are denied the legal minimum wage and are also paid less than male workers.They referred to the growing shortage of construction work which is being taken over by big companies who employ labour displacing machinery. They said they get only 10-15 days of employment in a month. They complained about the high price of wheat and other food and said they lived in misery in jhuggi bastis where there is a shortage of water and electricity and toilets. They mentioned that construction workers and their children are prone to frequent accidents at worksites but there are no health facilities available and no accident compensation or legal redressal. Many widows demanded pensions to be able to support their children and feed and educate them. In the absence of social security, they said, they are forced to send their children out to work. Several hoped that the Board would bring them much needed relief.

The Union Minister for Labour Shri Sahib Singh Verma said that he and his government are well aware of the plight of the working class. He said that construction workers are entitled to fair wages and they should send complaints to him in this regard.He said the government has drawn up a large social security scheme for the poor under which they will pay a monthly charge and be insured for healthcare, hospitalisation benefits, old age pensions and life insurance cover.He advised the women to form self-help thrift and credit groups with the aid of the National Commission for Women and other government bodies in order to increase their incomes.

The public hearing yielded the following recommendations:

Recommendations:

1. The Delhi government should immediately appoint a chairperson for the Construction Workers Board.
2. Registration of Workers and Employers should be started immediately. Procedures for registration should be simplified. No certificate for proof of age should be demanded apart from a simple declaration by the worker. Identity cards should be issued.
3. The Board should make a statement on the amount of cess collected to date and the sources of this collection. A Cess Collector, Assessment Officer and Appellate Authority should be appointed immediately by the Delhi Government to carry out collections retrospectively. Officials responsible for non-collection should be asked for an explanation.
4. The Delhi Metro Rail Corporation should not be exempted from paying the cess.
5. The process of providing workers social security benefits promised in the Acts should be started immediately, including health and maternity benefits, accident compensation and disability benefits.
6. Construction workers should be covered by the ESI Act and Provident Fund Act through the Board. For this purpose, the two Acts should be suitably amended.
7. Implementation of the Minimum Wages Act in the construction industry is an urgent need. In Delhi, as many women testified at the public hearing, men are paid Rs 80 per day and women Rs 60 per day, against the legal wage of Rs 103.
8. Implementation of the Equal Remuneration Act in the construction industry is urgently required to prevent discrimination against women workers. Many women at the public hearing raised this issue of discrimination.
9. The Union Labour Ministry should ask the state governments to speed up the setting up of Boards, the formation of expert committees, the drafting and notification of rules, the registration of workers and employers and the collection of cess.
10. The Delhi Rules should be recommended as Model Rules to be adopted by states where the Acts are still to be implemented, in order to avoid further delays in drafting, translating and approval by state legal departments. A time limit should be prescribed by the Union Ministry for the finalisation of rules.
11. The government must stop giving contracts to big companies that employ labour displacing machinery, so that employment avenues increase. Many women stated that mechanisation was the primary reason for the reduction in availability of work, leaving them with only 10-15 days of employment in a month.

12. Brick kiln workers should be covered by the construction workers Acts, so should construction workers working in areas where the Factories Act and Mines Act are in operation.
13. Health and other benefits under the newly announced Social Security Scheme should be extended to construction workers registered with the Board and separate registration should not be required. If any additional amount has to be paid as contribution to the Social Security Scheme the Board should pay it on behalf of the workers.

ANALYSIS OF DELHI SURVEY OF 400 WOMEN CONSTRUCTION WORKERS

(See Questionnaire to find out the exact questions asked and Table for detailed data)

1. It is evident that the overwhelming majority of women in the industry are young, being between the ages of 16-40 years. This indicates the crucial need for welfare measures such as maternity leave and benefits, availability of health care for mother and child as well as crèches and schools for older children. There is a different set of implications for older women. Only 42 of the 400 women surveyed, or 10.5 percent, reported that they were over 40 years old. Of these, the largest number is in the 41-45 year age bracket. There is an obvious need for retraining in new income generating skills for women in the middle age bracket. Again, pension provisions under existing laws and rules apply only to those over 60 years of age and as such are useless for women. A woman who is forced to leave the industry at age 40 because she is overage by industry standards will, according to current Delhi rules, have to pay her monthly contribution of Rs 20 (Rs 240 annually) every year for the next 20 years to be eligible for a paltry pension 20 years later. The age of pension for women will have to be revised, keeping in mind the peculiar nature of the industry.
2. The vast majority of the women do beldaari or 'unskilled' work and earn lower wages than men. These are the women whose livelihood is being threatened by mechanization today. Incidentally in answer to Question 9, as many as 366 reported that machines are being used at the worksite.
3. Sixty percent of the women earn wages between Rs 61 and 70 per day. Over a quarter or 28.5 percent earn only Rs 41-50. Only six women or 1.5 percent earn over Rs 70 a day. In contrast, 33 percent of men earn Rs 61-70 while 35 percent earn Rs 70-80 per day. Obviously neither Minimum Wages Act nor the Equal Remuneration Act is being applied on worksites. Given the shortage of work and low wages, it can be calculated that the majority of women in the city earn no more than Rs 975 a month, provided they get work for 15 days in a month at an average of Rs 65 per day.
4. The workers are paid either daily or weekly or monthly or fortnightly, depending on the contractor's policy.
5. A significant minority, 21.5 percent reported deductions in wages.
6. Male workers earn higher wages, as analysed above.

7. While a third of the women said men and women were paid the same wages, another one third reported that men earned Rs 16-20 more per day.
8. The majority, 52.5 percent, managed to find work for 11-15 days in a month. Another 27 percent found work for 16-20 days in a month. Full employment is rare, only 7 percent women worked for 28 days in a month. The fact that about 80 percent of women are unemployed for ten to twenty days in a month, in the capital city where construction activity is booming, is evidence of the dearth of employment for women.
9. Mechanisation is evident, with 366 women reporting the use of machines on worksites.
10. Cheap credit for personal needs is badly required, as 88.5 percent of women reported that they took loans to tide over times of unemployment. The lack of employment, low wages and indebtedness keeps many women in virtual bondage to their thekedar. Only 5 percent of women had savings to fall back on.
11. The fact that 76 percent of the women said there were no accidents on worksites is strange, given the hazardous nature of the industry. This finding requires scrutiny.
12. As many as 95.5% of women said they had received no maternity relief whatsoever.
13. As many as 86 percent of women said there were no crèches for them to avail of.
14. Not surprisingly, 58 percent of women said they take their children to work with them. More positively, 38 percent said their children go to school. Only 3 percent had grown up children.
15. While 40 percent of women and their families live in rented housing, another 32 percent live in jhuggis that they have put up themselves. The positive fact that 28 percent live in their own house points to the settled nature of a substantial section of construction workers in Delhi.
16. One third or 32.5 percent of women enjoy the facilities of drinking water, electricity and toilets. But an equal number or 31 percent have no facilities whatsoever.
17. It should be clarified that of those who reported they had all three facilities, in 66.6 percent of cases these were common facilities shared with other families.
18. The majority or 39 percent of women said their biggest headache was managing the household expenditure. Another 38 percent said their main problem was finding work. Fifteen percent report housing as their major problem. A few mentioned the education of children and ill health as their most serious problems.

FINDINGS OF DELHI SURVEY OF WOMEN CONSTRUCTION WORKERS

(Total Number of Women, who were interviewed-400)

<p>1. Age (Years):</p> <p>I. 16-20=36</p> <p>II. 21-25=62</p> <p>III. 26-30=92</p> <p>IV. 31-35=102</p> <p>V. 36-40=66</p> <p>VI. 41-45=26</p> <p>VII. 46-50=7</p> <p>VIII. 51-55=1</p> <p>IX. 56-60=8</p>	<p>2. Nature of Work:</p> <p>I. Unskilled=388</p> <p>II. Domestic Work=4</p> <p>III. Painter=6</p> <p>IV. Carpenter=2</p>	<p>3. Wages (in Rs.):</p> <p>I. Rs 41-50=114</p> <p>II. 51-60=240</p> <p>III. 61-70=38</p> <p>IV. 71-80=6</p> <p>V. 81-90=0</p> <p>VI. 91-100=2</p>
<p>4. Time of the payment of wages:</p> <p>I. Daily=130</p> <p>II. Weekly=104</p> <p>III. Fortnightly=58</p> <p>IV. Monthly=106</p> <p>V. Above=2</p>	<p>5. Is there any Deduction from wages?</p> <p>I. Yes=86</p> <p>II. No=314</p>	<p>6. Wages of Male Workers for same work (in Rs.):</p> <p>I. Rs 41-50=26</p> <p>II. 51-60=84</p> <p>III. 61-70=132</p> <p>IV. 71-80=140</p> <p>V. 81-90=2</p> <p>VI. 91-100=14</p> <p>VII. More=2</p>

<p>7. Difference between the wages of Men and Women Construction Workers (in Rs.):</p> <p>I. Equal=120 II. 6-10=86 III. 11-15=32 IV. 16-20=122 V. 21-25=2 VI. 26-30=30 VII. 31-35=4 VIII. 36-40=2 IX. More=2</p>	<p>8. Availability of work in a month (in Days):</p> <p>I. 6-10=22 II. 11-15=210 III. 16-20=108 IV. 21-25=32 V. 26-30=28</p>	<p>9. Use of Machines at Work Site:</p> <p>I. Yes=366 II. No=34</p>
<p>10. How you get the expenditure during unemployment:</p> <p>I. After taking Loan=354 II. Husband is Working=24 III. From Saving = 22</p>	<p>11. Accidents during work place:</p> <p>I. Yes=96 II. No=304</p>	<p>12. Availability of any type of Maternity relief:</p> <p>I. Yes=18 II. No=382</p>
<p>13. Is there any system of Crèches in your area for Women Construction Workers:</p> <p>I. Yes=56 II. No=344</p>	<p>14. What you do to Children, when you go to work:</p> <p>I. Go to School = 152 II. Come to Work Place with her = 232 III. Grown up children = 12 IV. Any other = 4</p>	<p>15. Housing:</p> <p>I. Own House=112 II. Rented=160 III. Juggai=128</p>

<p>16. Facilities in your Home:</p> <p>I. Drinking Water = 66</p> <p>II. Drinking Water, Electricity = 48</p> <p>III. Drinking Water, Electricity and Toilet=130</p> <p>IV. No Facilities = 124</p> <p>V. Only Electricity = 20</p> <p>VI. Drinking Water and Toilet = 12</p>	<p>17. The nature of Facilities in your home:</p> <p>I. Private=10</p> <p>II. Common=266</p> <p>III. No Facilities=124</p>	<p>18. The main problem in numerous problems:</p> <p>I. Employment=152</p> <p>II. House = 62</p> <p>III. Family Expenditure = 156</p> <p>IV. Medical problem=14</p> <p>V. Education of Children = 16</p>
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REPORT OF THE PUBLIC HEARING ON WOMEN CONSTRUCTION WORKERS MUMBAI, FEBRUARY 11, 2004

A Public Hearing on the status of Women Construction Workers was held in Mumbai today, February 11, 2004 at the instance of the National Commission for Women. The Hearing was conducted by Ms. Poornima Advani, Chairperson of the National Commission for Women. The hearing was attended by Sh. M. B. Gadre, Labour Commissioner, Maharashtra.

Over 400 workers and government officials testified before a panel comprising of former High Court Judge S.D. Pandit, veteran trade union leader Dr. Baba Adhav, trade unionist and researcher Sujata Gothoskar, advocate Sanghraj Rupwate, Nirmalatai Prabhawalkar, Abhay Mokashi, media consultant. The public hearing was organized by the Nirmana Mazdoor Panchayat Sangam in the premises of the Mumbai Marathi Patrakar Sangh in collaboration with the Joint Action Committee for Construction Labour, Nirmana Mazdoor Sangathana, Asangathit Shramik Samajik Suraksha Parishad, and the India Centre for Human Rights and Law.

The public hearing was conducted on the status of the implementation of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and Other Construction Workers Welfare and Cess Act, 1996.

Opening Session

In his opening remarks, Dr Baba Adhav said that of the 40 crore workers in the country only two or three crore who work in the organized sector are covered by any protective laws that entitle them to decent wages and social security benefits. The rest work in difficult conditions and the majority does not get minimum wages or sufficient earnings to feed themselves and their families. In this situation, it is vital that all workers be covered by suitable legislation that ensures their right to livelihood and social security.

On the special problems of construction workers Dr. Adhav said that construction labourers are practically bonded labourers. Contractors bring workers and their families from distant states. This ensures a workforce that is totally dependent on the contractor for survival. Many of these workers cannot speak the local language and are unable to communicate their problems to local authorities or trade union persons or social workers.

Baba Adhav pointed out that many construction labourers die in accidents but the contractors and builders cover up these cases. They send the bodies back to their native place and claim that the deaths were because of liquor consumption.

He said that although construction work is hazardous in nature, not a single worker is covered by accident or **life insurance**. Even those working on large projects are not insured. In contrast, the workers on every lorry have to be insured, including the driver, cleaner and helpers. It should be mandatory for construction workers to be insured.

He suggested that at the stage when building plans are passed, **municipal bodies must take an undertaking** from the person/agency planning the construction that adequate provision is being made for housing the workers and providing water and sanitation, and a crèche and schooling facilities for their children.

He also said that cheap credit should be available to construction workers and other unorganised sector workers, including the self-employed, both for consumption expenditure and for buying tools etc. Construction workers, he said, are always in debt. It is strange, he pointed out, that when a poor person borrows money they have to pay higher interest than a rich person. A worker who takes Rs.90 in the morning has to pay back Rs.100 in the evening. Minimum 10% interest per day is the norm and sometimes it goes up to 25%. The government has no provision for loans to poor people but it ensures that the rich get cheap loans. A businessman pays interest at a maximum annual rate of 18%. Banks and insurance companies are all benefitting the business class and ignoring the needs of workers. Of the 2 crore nirman mazdoor, how many have bank accounts, he asked.

He demanded that Construction Workers Welfare Boards should be immediately set up in all states. At present only the three states of Tamil Nadu, Kerala and Delhi have Boards. Among the welfare benefits being denied to construction workers are drinking water, accommodation, employment regulation, payment of minimum wages, equal wages for women, creches and schooling for children. Only strong organisations of workers can ensure that they get these rights, he said.

Baba Aadhav also appealed to all workers to give up alcohol and stop destroying their own lives and the lives of their families. He alleged that contractors encourage consumption of liquor to keep the workers in a stupor and unable to challenge them. There may be no drinking water in a *zhopadpatti* but there is always liquor flowing.

Arokya Mary, a spokeswoman of the Asangathit Shramik Samajik Suraksha Parishad, an alliance of 20 organisations formed for collective action and pressure on issues of unorganized sector workers, expressed solidarity with construction workers. She said the Parishad wants deprived groups like rag pickers and domestic workers to be treated as semi-skilled workers and given insurance, medical facilities, maternity leave and other benefits.

Subhash Bhatnagar of the Nirmana Mazdoor Panchayat Sangam said the organization had struggled for nearly 20 years to get social security for construction sector workers. Although the

lobbying and advocacy had focussed on the Central Government in New Delhi, the inspiration had come from Maharashtra's Mathadi Labour Act. In 1996, Parliament finally enacted the two laws to protect construction workers and set up Boards for their welfare. Regrettably, these laws have still not been implemented. **Only six states have made serious efforts to implement these laws so far.** Maharashtra has still not set up a Welfare Board. It is to inquire into this non-performance and highlight the plight of women construction workers that the National Commission for Women has sponsored the series of public hearings.

He said that **unemployment in the construction sector is increasing because of mechanization.** In Delhi there are huge construction sites where flyovers and roads are being built. An entire metro network is being built by the Delhi Metro Rail Corporation. But on all these sites one sees hardly any women workers. All workers currently face the threat of being displaced by new, sophisticated machinery but women are the worst affected, being the least skilled workers. The majority of women are employed as head loaders. They are being displaced by new, crane-type concrete mixers that mix the concrete and convey it mechanically to the place where it is required. Bhatnagar urged the National Commission for Women to **provide retraining for these displaced workers so that they can find alternative employment.**

Women from several organizations of the unorganized sector in Maharashtra testified at the Public Hearing to the problems they faced in finding work, getting paid and sustaining themselves and their families. They said that **unemployment was a constant problem.**

Women construction workers said there was **discrimination in wages**, with the contractors paying them Rs 80 per day while paying men Rs 100 per day. They had neither ration cards nor electoral identity cards. Constantly relocating homes from worksite to worksite and living in impromptu housing without clean water and sanitation was extremely difficult. This affected their health and that of their families. Childcare, they said, is a special problem, as children are particularly vulnerable to accidents on the worksites. Children cannot be educated because of the constant relocation. Sexual harassment and non-payment of wages are major problems.

Sagar Taide of the Satyashodhak Kamgar Sangathana said that no city can run without workers but because they are unorganized they are unable to pressurise the government to look after their needs. The problems of women in construction are the same as those of other women workers. All workers are at the mercy of thekedars and employers. A major problem of construction workers, he said, is the lack of proper employment venues. To find work, they are forced to stand in the open and wait for contractors to offer them casual daily work. When workers stand in the *naka* (crossing) shopkeepers and businessmen object and complain to the police. Police do not take the side of workers. Workers in the entire unorganized sector have to organize and become a strong collective force to get justice, he said.

Kamla Pawar, a worker from Mulund, testified that although she and her neighbours had lived in the same zhopadpatti for 20 years the police is now trying to evict them. She asserted that it is their right to have proper housing in the city.

Machhendra Wankhede of the Asangathit Shramik Panchayat pointed out that all working people in Mumbai are at the mercy of the local goondas and police. Women rehriwalas and other vendors are forced to pay hafta to the police and the corporation staff to be able to work and earn a living.

Neelabai Pasare, a construction worker from Mumbra, said she stands in the *naka* every morning, sometimes from 8 a.m. to noon, waiting for work. There is no guarantee that she will get work. She earns Rs 80 per workday and her husband earns Rs 100. In Kalyan (a Mumbai suburb) the wages are lower, with women getting only Rs 70. Workers, she said, generally have to commute long distances and have to pay for their transport themselves. They get no bonus, nothing extra. The construction companies exploit them by making them work extra hours. Contractors invariably delay payment, often paying out Rs 5 at the end of the day with reluctance.

Pasare also strongly asserted that it is their children's right to get education. They cannot afford to pay donations. Children should be able to study till at least the 12th standard. She complained that workers like her are forced to live in zopadpattis in terrible conditions. The children are constantly exposed to the sun and the rain. Workers do not demand air-conditioned rooms, she said, but should at least have pucca housing.

Vaijayanta, a lecturer who also works for the Nirmana Sangh, said that she had researched the problems of women in the construction sector and found that many women work right through pregnancy and even deliver children at the worksite or *naka*. They do not go to hospitals because they are ill treated there. They get neither maternity leave nor maternity benefits. As a result of living in poor conditions, infections and diseases of the reproductive tract are common and leucorrhoea is a big problem. The health of all the women is affected, they are weak and most say that they have lost a few children.

Childcare, she said, was a special problem. She has seen women take babies up to top floors of tall buildings and tie the *paalna* (cloth cradle) there. They cannot leave the babies at home or even on a *crèche* on the ground floor (if there is one) because they have to be breastfed. Women feed their babies hiding from the contractor. **There are no toilets** on any site, so where do women go? There is no place to bathe in privacy and clean oneself of the dust and dirt of the workday. There is **clean water** provided when it is needed for construction but not for drinking. Women who live in impromptu housing cannot cook and leave the food lying in their huts because cats and dogs can get in. They cook during the lunch break and hurriedly feed the family.

Vaijayanta dwelt on the extreme insecurity of migrant women, saying that when a family comes to the city, the man goes to find work but the woman worries about where she will spend the night in safety. The woman worker bears a triple burden, that of a working woman, that of a householder who must feed the family, and that of a mother who has to secure the welfare and health of her children.

Women face discrimination on the job because even if they have the same skills as the men they are not given the same work. Most of the women's earnings are spent on running the household and the husbands take away the rest. Thekedars act tough and do not pay wages regularly, handing out only enough for daily expenses and commuting. It is not safe for women to stand for a couple of hours at the *naka*. Thekedars and others eye them, harrass them. She said that if employment is provided through Boards, women would be saved such daily harassment.

Bhagwat, a male construction worker from Bhandup, testified that he had fallen down from the first floor of a building while doing painting, six months back. The police took him to hospital. He is disabled and can no longer work. He said he had no insurance and has nothing to fall back on. His wife testified that it is becoming difficult to feed their two children. After the accident she had gone to the Seth. He gave her Rs.100 and packed her off. He said her husband would not be able to work and advised her to get him operated. She does not have the money for surgery and the Seth refuses to give compensation.

Prakash, who used to find work in *Mumbra naka*, showed his fractured leg and said he had fallen from the third floor. His back was strapped up and the thekedar told him to carry on working despite his injury. This one-legged young man asked why there were no facilities for handicapped construction workers like him to make a living?

Vijaya from Nagpur testified that she gets paid Rs.60 by the contractor and often has to work as late as nine o'clock in the night. She said it is difficult for women to make ends meet, especially since the men are all addicted to liquor. There is no money to educate the children. She said that medical expenses are a heavy burden and the contractor does not help even in crises like illness and hospitalisation.

State Labour Commissioner M.B. Gadre admitted that Maharashtra has two kinds of bonded labour, *Naka Mazdoor* and *Bandkam*. He said the condition of the *Bandakam*, who are migrant workers, is the worst. Most of them are from distant states and do not speak the local language Marathi or even Hindi, making it difficult for them to communicate their problems. By law, he said, contractors can only employ a certain percentage of migrant workers and he should be informed if there are violations. The problem, he said, is that workers are not organised to demand their rights. On the issue of minimum wages, he said the law applies to both men and women and claimed that his office is trying to ensure that it is implemented. He said that the national security scheme announced by the NDA government would benefit all unorganised workers, including construction workers, whether they are *Naka* workers or *Bandakam* workers.

Afternoon Session

In the afternoon session, Baba Adhav recalled the history of workers' struggles in Maharashtra and said that in the recent years the government has attacked the hard won rights of organized workers, removing the protections that they had obtained with such labour. To cover up its anti-labour

policies, it promised some benefits to unorganized workers and set up the Second Labour Commission. The Commission recommended umbrella legislation to provide basic social security to all workers but that legislation has not been enacted. Instead, in its hurry to appear pro-labour on the eve of elections the government has announced a faulty scheme for unorganized workers. He urged workers to use the pre-election period to extract their rights and announced a series of agitational activities for this purpose.

During this session, more workers testified to their problems. Several raised the issue of housing and of evictions. Abban Bhai said there are a lot of *zopadpattis* in and around *Mumbra naka*. Policemen come and try to remove the huts. These hutment dwellers had earlier been dislocated. They had been living in one area for 40 years but were persuaded to shift and promised alternative land of their own and facilities like water supply and schools. They believed the government and took their old bricks to build houses in the new dwelling place. But they were not given land. There are no facilities in the new area, not even toilets for the women.

Sindhutai of Bhandup spoke about their terrible living conditions. She said they have no drinking water, no light and no ration card. For the last 15 years she and her neighbours have been promised that they will be given the rights to their huts but they have not got it. She said the open drains and dirty environment leads to breeding of mosquitoes and her children fall ill frequently.

Usha Laxman from Mobile Creches also said that the polluted, dirty living environment spreads disease among workers and their families. She referred to the problem of child labour and said it destroys children's health and future.

During this session, there were a few testimonies by workers located in other parts of Maharashtra and in neighbouring states.

Some workers from Gujarat reported on their difficult living and working conditions. Prenita Katara said she lives in a village and works very hard, sleeping only at 3 a.m. She goes out to fetch water late at night; otherwise she does not get water. There is no toilet or bathroom in their houses. Women have to rise early in the morning to go out and ease themselves. Women also have to cook food for the children before leaving for work. She said not much work is available in the villages so people are being forced to go to the cities. But even there older women get no work, only young women get work easily, especially those who have no children. Women should get a pension at the age of 45 years, she said.

Vipulbhai Pandya of the Gujarat based Bandkam Mazdoor Sangh said that machines had come in and taken over the work. As a result people are not getting jobs. **Machines should be banned**, he demanded. 93% of construction workers fall into the unskilled category and 87% work in the *naka* as casual labour, he said. He added that many people get only 10 to 15 days' employment in a month. Yet those who get work are forced to labour for 10 to 12 hours. Contract workers cannot question their working conditions, as they have no evidence to even prove their employment. The result of such

exploitation, he said, is poverty. Construction workers who build houses for others, have no houses to live in. 93% of construction workers in Ahmedabad have no housing. Some 20,000 migrant tribals are working in Ahmedabad in terrible conditions.

Gorakh Nath Rathor, a plumber from Nallasopara, complained about **non-payment and under payment by contractors**. He said that once the work is finished some contractors refuse to pay on the excuse that the job has been done badly. If a worker goes to the police, the contractor bribes the police. He said contractors often delay women's wages. Women wait till late at night but are told to come on the next day for the earned wages.

Madhukar Patil from Raigad testified that the **brick kiln workers are the most exploited** among construction workers. During the Ganpati festival or Gauri Purnima or other celebrations many people take loans from the brick kiln owners and later they have to work in the kilns to pay off the loans. Brick kiln workers do not even get wages but are paid in kind because the kiln owners also run provision stores and liquor shops.

Jayashree, a worker from Ratnagiri, testified that **tribal workers are often cheated** and wages not paid.

Habibulla, a worker from Malad Naka, complained that a contractor did not pay his wages and that when he approached the police they said it was not their job to get people's wages paid.

Vilas Bhongade of the Maharashtra Bankhkam Va Lakud Kamgar Sangathana, Nagpur, said that **accidents at work are common**. One person dies every day. But the cases are hushed up. The police say that the man was drunk. FIRs are manipulated.

Sunder Navalkar of the United Labour Union said that the Constitution Of India speaks of food, shelter and education as fundamental rights. A government that cannot provide these is not fit to govern, he said. Indian laws he said are very beautiful but the implementation is zero. He spoke of his forty years' experience in the construction sector recalling that back in 1962 construction workers were getting paid Rs.1 to 2 per day. In 1964 they started getting Rs.3.64. He asked why today construction workers in Maharashtra are not getting the **minimum wage** of Rs.136? He recalled that the government made a law in 1966 that workers should get the minimum wage. But everywhere there is a contract system and contractors and builders make all the money. If the builder pays Rs 100 he gets Rs 500 in return. The government wants these middlemen, he said.

Navalkar denounced the NDA government's social security scheme because instead of providing benefits it takes money out of workers' pockets. It asks workers to pay Rs 50 or Rs 100 a month for social security. He said the scheme has a proviso for paying pension to those who are above 60 years. But many workers will not live up to 60 years. He said the government's first priority should be to ensure that workers gets work every day. Housing, health and work should also get priority. For this we have to fight, he told the workers present.

Abhay Mokashi, media and political consultant, said although construction workers have built the cities and given them hospitals, colleges and big buildings they themselves live in deprivation. He said one major cause was the fact that the workers are not literate. Had they been educated they would not have worked in the construction industry where the returns are so low.

Advocate S. Rupawate urged the National Commission for Women to use its influence with the Central and state governments to improve the lot of the construction workers by implementing the legislations that have been enacted for them

Justice S.D. Pandit urged the workers to improve their knowledge and information levels and actively demand their rights. He said the need of the hour was umbrella legislation for the protection of all workers in the unorganized sector.

Madhukant Pathariya of the Nirman Mazdoor Sangathana said that in Mumbai workers have been fighting for the last 40 years to get the right to live. The government has still not given them any right over their huts. It has not given electricity, drinking water, toilets and drainage systems. He said that wherever there are hutments, whether it is in Mumbra or Matunga, our fight is concerning land. There are 200 Nakas in Mumbai but not even one naka is authorised. Vegetable vendors and autorickshawallas are taking over these spaces. We should have the right to stand in the nakas but we are thrown out. The police come and drive us away. They throw out our tools. Builders bring people from outside and give them a place to live in but do nothing for local workers. The workers are paid less because the builders want us to live like this. If we get more money our standard of living will improve. Workers in factories get Rs.15000 but construction workers get only Rs.800 to Rs.900. This is because we are illiterate and unorganized, he said.

Pathariya pointed out that construction workers are not self employed. Somebody is purchasing our labour. It should be paid for adequately. The law on minimum wages should be implemented. The Labour Inspectors are meant to ensure the welfare of the workers but they take bribes from the builders. Workers do not get their legal entitlements. Women never get the maternity benefits they are supposed to be given. There is no equal pay for equal work; women are always given less, although this is against the law. The situation could change, he said, if a Welfare Board is set up for workers. It is high time that state governments implement the central laws meant to benefit construction workers. **Maharashtra has no Board. It should be set up immediately.**

The Public Hearing ended with slogans in support of the workers' demands.

NCW Chairperson Purnima Advani and members of the jury as well as construction workers representatives subsequently addressed a Press Conference on the issues and demands spotlighted at the Public Hearing.

REPORT OF THE PUBLIC HEARING ON WOMEN CONSTRUCTION WORKERS PATNA, 22 MARCH, 2004

A Public Hearing on the status of Women Construction Workers was held in Patna on March 22, 2004 at the instance of the National Commission for Women. Shri Rajballabh Prasad, Labour Minister of the Bihar state government, inaugurated the Hearing by lighting the ceremonial lamp.

Ms. Baby Rani Maurya, Member of the National Commission for Women, was among the distinguished guests.

Construction workers and representatives of trade unions testified before a panel comprising of Justice Lakshman Jha, Professor B.N.Singh formerly of Patna University's Labour and Social Welfare Department, and Shrimati Abha Kumari, advocate of the Patna High Court.

The public hearing was organized by the Patna based NGO Nidaan at the Anugrah Narayan Sinha Social Institute.

The public hearing was conducted on the status of the implementation of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and Other Construction Workers Welfare and Cess Act, 1996.

Background

The situation of construction workers in the state of Bihar is a matter of grave concern. An estimated 10 lakh workers engaged in building houses, dams, roads, bridges, hospitals, schools and other facilities are living in extremely difficult conditions. Irrespective of whether construction is carried out through the agency of large contractors or petty contractors or the public sector, women construction workers face numerous problems such as unregulated employment, denial of legal minimum wages, insecure working conditions, accidents, lack of maternity benefits and pensions.

On August 20, 1996 the Government of India enacted the two above mentioned Acts for the benefit of construction labour.

Under Section 5, 18-1 of the Building and Other Construction Workers Act there is specific provision for the establishment of a construction workers' Welfare Board at the state level. Unfortunately, in the past eight years only six states have made serious efforts to implement these laws. The

indifference of the governments of other states, including Bihar, has forced construction workers to continue to live and work in insecure conditions.

Morning Session:

The Public Hearing began with the lighting of the ceremonial lamp by Shri Rajballabh Prasad, Labour Minister of the Bihar state government, in the presence of a large number of workers and their representatives as well as a distinguished jury.

Shri Rakesh Tripathi, legal coordinator of Nidaan welcomed the invitees and participants and outlined the objectives of the PH. He said that the worsening condition of women construction workers is largely due to the insecure working environment, discrimination and unregulated employment in the construction sector.

The Nidaan prayer, "*Itni shakti hamein dena data...*" was sung, invoking strength for the people's struggle.

The first speaker was Dinesh Kumar 'Akela' of the Nawada Nirman Mazdoor Sangh. He said that male construction workers in Nawadah labour all day and get paid Rs 50-60. Women get only Rs 40-50. Neither working conditions nor wages are regulated. There is no social security. Many women construction workers are not even aware of the various laws enacted by the Government for their welfare.

A woman worker, Usha Devi of Kamla Nagar, said that she wakes up every morning at 4 a.m. to start cooking for her family. By 7 a.m. she has to be at the Bhatti, waiting for a contractor to offer her work. Sometimes she gets work, sometimes not. The work is risky as materials have to be carried up to the fourth or fifth floors of buildings. At the end of a day's work, men get paid Rs 60-70 but women get only Rs 30-40. Because of such poor pay, workers cannot afford to educate their children. She said that she had heard about laws for construction workers welfare but so far she and her co-workers have got nothing.

Another woman construction worker, Sushila Devi, was outspoken on the problem of sexual harassment at work. She said that she finds it difficult to find work because the contractors prefer good-looking women. They only hire women who speak to them nicely, the rest do not get work. On the worksite the thekedar and munshi misbehave. Women's *izzat* is not safe. Women are always afraid. But what can they do? After all, they have to feed their children and fill their own stomach.

Rajkumari Devi, a woman construction worker from Buddha Colony, said that in her younger days she used to carry concrete and bricks up three or four floors. Now that she is older she is not as strong as before. She is forced to live off her son and daughter-in-law. It is becoming difficult to eat. She said she had learnt that the government pays pensions to old people but she has got nothing.

Rajwanti Devi, a representative of women construction workers, testified that working conditions are terrible. She said that if a worker is killed in an accident the thekedar immediately buries the body.

If he is asked, he denies that the woman worked for him. There is no name on the register. She referred to an accident in an apartment block on the Dak Bungalow Road where two workers were crushed to death. Their bodies were recovered two days later. The workers jammed the road, there was violence, yet the workers' families got no compensation.

She added that workers are not given identity cards or adequate wages. Often they are asked to put a thumbprint in a register but given less money than they have signed for. Many contractors do not even pay, they just run away. If women take children to the site, the thekedars force the children to work. They do not even give women enough time to feed their babies. She said the central government has made laws to benefit workers but the laws have not been implemented in Bihar. She requested the Labour Minister to immediately form the Welfare Board for construction workers.

Jai Krishna, advocate at the Patna High Court, provided a broad outline of the 1996 Acts and informed that under these the workers are entitled to receive, through the Welfare Board, benefits such as immediate accident relief, housing loans, group insurance, benefits for maternity and for children's education and pensions for those over age 60. He referred to provisions for formation of Boards, cess collection and registration of workers. He said that the laws specified hours of work, overtime rates and double overtime for working on national holidays. They also tried to regulate big contractors and companies.

Arbind Singh, Executive Director of Nidaan, said that in the era of globalisation it is being claimed that the market will provide something for everyone. But what can the market offer workers who have never seen the insides of a school? He said that workers contribute their precious labour to the building of the nation and the creation of a new society but this very society denies them the benefits of their labour. At the end of the workday they are denied even the legal minimum wage. They are exploited by thekedars and middlemen. Non-payment of wages, denial of accident compensation, unsafe working conditions and unregulated work are hurdles in the development of workers.

Singh said that Nidaan had studied the condition of workers deeply before taking up the work of organizing them. Today, its Self Help Groups have given loans to the tune of Rs 2 crores to unorganized sector workers. The National Commission for Women and other organizations have contributed to this process. Members and their families are now able to benefit from group insurance and medical insurance schemes, thanks to the cooperation extended by the Life Insurance Corporation of India. He said that Nidaan has been demanding minimum wages and the establishment of the Welfare Board and expect the government to take up these demands immediately.

Labour Minister Shri Rajballabh Prasad, who had been carefully listening to the various speakers, said that while workers are contributing to the building of the nation, the nation has not done enough for their welfare. Although the central government has enacted laws for the benefit of construction workers, the inefficiency of the legislature, the judiciary and the administration has rendered these laws ineffective. Six states have formulated laws for construction workers and this work is in progress

in Bihar, he said. He gave an assurance that a Welfare Board would be set up in Bihar within the next two-three months. He also expressed his concern for the situation of daily wage workers.

Dr. Pradyuman Kumar, Secretary of the Scholars' Association of India, said he could not understand why the government was unable to implement pro-worker legislation. He said the issues of minimum wages, security and discrimination were not just concerns in Bihar but were all-India issues. Unfortunately the administration does not support workers on these issues. He advised all NGOs to issue their own identity cards to workers.

At this point the Session concluded with the announcement of the lunch break.

AFTERNOON SESSION

The second session of the day began with a stirring song by Birendra of Nalanda which began with the words, "Why do some people starve here while others celebrate...the *dhotiwala* earns but the *topiwala* eats."

Rakesh Tripathi welcomed those who had joined the Hearing for the afternoon session and provided a brief summary of the morning's proceedings. Several representatives of workers' organizations subsequently addressed the gathering.

Gazanfar Nawab, Secretary of the AITUC, said that his organisation had raised the issues of construction workers from every forum. He said that construction workers must get their due under the 1996 acts. AITUC had recently organized a dharna to demand implementation of the law. He demanded that an administrator be appointed immediately to enable proper framing of rules and appropriate implementation.

Chandraprakash Singh, secretary of INTUC, said that today there is a whole army of the unemployed in the country. Those who are unable to find jobs in the formal sector are being forced to fend for themselves in the unorganized sector. The government is doing nothing to help them. Enacting a law is meaningless unless it is implemented. The state and society must do something for those who contribute their labour to the nation. He said that the Unorganised Sector Bill, 2003 had been drafted and the Bihar state government too should frame a similar law. He said the plight of the daily wage workers is the worst and the Welfare Board must provide for them.

A workers' representative, Mohammed Shabbir, made a rousing speech urging young people to organize and collectively struggle for their rights. He said that during the Nehruvian era the government drew up schemes to benefit the people but today the government draws up schemes to loot the people. He said workers' labour is being looted whether it is on private or on government sites. Daughters and wives who go out to work are unsafe. He said he was old but still had the strength to struggle if others joined him. He said one gets nothing by begging but by one can win a kingdom by force.

Rajendra Kumar, a worker, said that women are not the only ones who have problems. Men too are exploited. They labour from eight or nine in the morning to six or seven in the evening. At the end

of the workday all they get is Rs 60 or 70. What can a man do with this, what can he eat, what can he save, what can he spend on his children, he asked? The result, he said, is that children end up in the same trap, starting work early. When there is illness there is no money for medicine or food. If there is an accident and the man dies, the family is fobbed off with five or ten thousand rupees. The police do not even register a report. Men worry about what will happen to them when they are too old to earn. He urged those present to do their best to help change this situation.

Radha Devi, a woman construction worker, said that she had been hearing for so long about laws for construction workers but where is the law when workers die? She said two workers had been buried alive in Fraser Road and thousands had died while constructing the Gandhi Bridge. She said that when a worker was electrocuted during the President's visit the government claimed that he died of heat stroke. She said thekedars bribe everyone and get away with anything. She demanded that the system of thekedari should be abolished and that workers should be employed directly by companies. She thanked NCW Member Baby Rani Maurya for her presence and support and asked her to guide them in the campaign to get their rights. She said that workers like her are ready to struggle for the establishment of the Board. They are prepared to fight so that their children's future is secured.

Baby Rani Maurya then addressed the gathering. The chief points she made in her speech were;

- She was deeply distressed to learn about the sexual harassment of women construction workers at construction sites or on the way to work. She was also concerned about the open discrimination in wages.
- She said the women workers are only supposed to work for eight hours, during daytime. The law does not permit night work for women.
- The police cannot take a woman to a police station at night either to register a report or for questioning.
- Women will have to struggle for their rights because no one else will give them their rights.
- Women must organize at their workplace and demonstrate their collective strength.
- She is always available to help women get justice and can be approached on any woman-related matter.

She urged the women to be vigilant in defence of their rights and strengthen their organizations by taking equal part in struggle. She assured them that a detailed report on their problems would be submitted to the central government for action.

JURY'S COMMENTS:

During the final session the three-member panel comprising Justice Lakshman Jha, Prof. B.N.Singh and Ms. Abha Kumari presented the following minimum demands:

1. The Bihar state government should, without delay, set up the State Welfare Board provided for by the Building and other Construction Workers' Act.
2. After establishing the Welfare board the government must take immediate steps to collect Cess as stipulated under the Cess Act.
3. Measures must be taken to ensure regulation of employment and wages and provide social security and welfare to workers.
4. A Dispute Resolution Committee should be formed to resolve disputes between workers and employers.
5. All workers and contractors should be registered.
6. Provision should be made for insurance, pension, monsoon relief, maternity benefits and healthcare (wherever ESI is unavailable).
7. New technologies should be adopted to ensure worker safety at sites.
8. Provision should be made for legal aid.
9. Provision should be made for housing, crèches and an education allowance for children's education.

Lastly, Rakesh Tripathi thanked the participants, invitees and jury for their presence and declared the conclusion of the Public Hearing.

CONSTRUCTION WORKERS AND THEIR PROBLEMS

— A Concept Note by T.S. Shankaran

The following Note prepared for the NCC-CL raises questions about the implementation and viability of the Acts for construction workers as well as broader social security issues.

1. Who are construction workers? The Building and Other Construction Workers (Regulation of Employment and Condition of Services) Act, 1996, (referred to as the Main Act) while defining building and other construction work in Section 2 (d), defines 'building workers' as a person employed in construction with any building or other construction work, subject to some exclusions. Will or should persons employed in brick kilns be included in this definition?

Section 2 (d) "Building or other construction work" means the construction, alteration, repairs, maintenance or demolition, of or in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communication, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which the provisions of the Factories Act, 1948, or the Mines Act, 1952, apply"

It is also to be pointed out that the definition of 'building and other construction work' does not include any building or other construction work to which provisions of the Factories Act, 1948 or the Mines Act, 1952 apply. What is the significance and implication of this exclusion?

2. What is the present status of implementation of the above-mentioned 1996 Act, and the Building and other Construction Workers' Welfare Cess Act, 1996 (hereinafter the referred as the Cess Act) in various States/Union Territories and in the Central Government? What are the reasons for the delay in implementing both the laws even after the lapse of seven years and more? Have all the State Government/ Union Territory Administrations published the Rules under the Main Act? Have Expert Committees as contemplated in Sec. 5 of the Main Act. been constituted to facilitate the making of Rules under Act? To what extent, has the Central Government used the powers conferred on it under Section 60 to give directions?

3. Will the delay in promulgating Rules under the Main Act. stand in the way of collecting Cess under the Cess Act? Can't Cess be collected, if need be, with retrospect effect from 3.11.1995, or at least from 26.3.1998 when the Central Government made the Rules under the Cess Act.? Section 3 (3) of the Cess Act stipulates that the Cess collected should be made over to the Board (set up under Section 18 (1), of the Main Act.); notwithstanding the delay in setting up the Boards by various States/ U.Ts. Cannot the Cess be collected by the local body concerned and kept in deposit by the State Government/ UTs until the Board is constituted when the amounts can be transferred to the Board? There can be no justification for not collecting the Cess, authorised by Statute. Even on a modest estimate the amount of the Cess so far left uncollected by States/ UTs must run into thousands of crores, the money that legitimately belongs to the construction workers, to be used for their welfare and Social security. What alibi can state Govts/ UTs put forward, for this serious omission/ lapse?
4. While the Main Act carries 'Regulation of Employment' in its title and even the preamble refer to it as "An Act to regulate the employment....;" the Act has no provision for regulation of employment. There is only provision for registering the employers and beneficiaries (the very description of workers as beneficiaries is repugnant; they must be considered to be participants and not merely recipients of any benefits). In this connection, the related provisions in the Tamil Nadu Manual Workers (Regulation of Employment and Condition of Workers) Act. 1982 may be seen: Section 3 is the Tamil Nadu Act refers to Schemes for ensuring regular employment of manual workers: Sub Sections (1), 2 (c). 2(d) 2 (e), and 2(f) are relevant. Particular attention is drawn to sub section 2 (e) and (f) which are reproduced below:-

"3(2)(e) for securing that, in respect of period during which employment or full employment is not available to manual workers though they are available for work, such manual worker will, subject to contain of the works, receive minimum wage;

3(2)(f) for prohibiting, restricting or otherwise the employment of manual workers to whom the scheme does not apply, and the employment of manual workers by employer to whom the scheme does not apply.

These provisions in the Tamil Nadu Act follow closely the provision contained as scheme 3 of the Dock Workers (Regulation of Employment) Act 1948, a Central Act. Appropriate provisions for regulation of employment, for establishment of autonomous tripartite Board for regulating employment, amendments of terms and conditions of services, for dispute resolutions, for implementation of the programme and scheme and the Act are a must, if the construction workers are to be given a fair deal. This has presently been the stand right through of the National Campaign Committee for Construction Workers under the chairmanship of Justice V. R. Krishna Iyer, retired Judge of the Supreme Court of India. This point cannot be overlooked or glossed over. Building and Construction work is an essential part of all activities, both government/

quasi Government and private, and accounts for a very high percentage of expenditure of government and government organization, both Plan and non-Plan.

5. While looking at the Main Act, an important issue will be the relationship between the Main Act and similar legislations, if any in any of the States. Section 63 of the Main Acts states that, "Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the building and other construction workers than provided for them by or under this Act".

Taking the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Service) Act. 1982 and the Tamil Nadu Manual Workers (Construction Workers) Welfare scheme 1994 under it, as an example; one finds that the coverage under the Main Acts and the Tamil Nadu Scheme are different; while the Main Act applies only to establishments which employed or had employed on any day of the proceeding twelve months ten or more building workers in any building and other construction work' (section 1 (4)), the Tamil Nadu scheme has no such employment limit and applies to all establishments where the construction workers are employed.

On the other hand, while the Cess under the Main Act is 1 % (up to a maximum of 2%) of the cost of the project, it is only 0.3% under the Tamil Nadu Scheme. Further whereas the Main Act has in Section 16 provision for contribution to be made by the worker to the fund, the Tamil Nadu Scheme as it operates now does not call for any contribution to be made by or collected from the workers.

Above all, whereas the Tamil Nadu Act, as already indicated in Para (4) above, has provisions for regulation of employment, the Main Act does not have such provisions. In these circumstances, to compare the State Law with the Main Act for purpose of Section 63 appears to be a futile exercise.

The problem becomes even more diffuse if already there are non-statutory Schemes in any State providing for welfare and social security to construction workers. Some States like Karnataka and Andhra Pradesh have drafted Bills in respect of workers in the Unorganized Sector and a comparison of the Main Act with those Bills may be fruitful.

Above all the Central Government has introduced a Bill to cover all workers in the unorganized sector; construction being one such sector, it will be interesting to see what the Central Bill will have vis a vis the Main Act.

6. The discussion in Para 5 above raises a fundamental question as to whether the Central Government should at all have any executive role in respect of unorganized sector workers, other than having a coordinating, standard setting and supervising role besides providing appropriate financial assistance to the States and Union Territories. There is no reason why the Central Government should have a welfare fund for Construction Workers, Agriculture Workers and so on. In fact it

is a moot point whether the Central Government need at all be the appropriate Government in respect of not only such laws but also in respect of Minimum Wages Act, Inter State Migrant Workers Act and so on.

7. An important question that arises when we examine the legal provision relating to one section of unorganized sector workers, such as construction workers that we are now considering, is whether such a sectoral approach is desirable and whether this may result in divisive forces among different sector of unorganized workers. If the various such workers are to be covered by different set of welfare funds, then it may happen that those sectors where income to the fund by levy or Cess on the activity concerned can be large will always stand out as the favored one, compared to those sections where incomes to their funds may not be adequate, comparatively or even absolutely.

Also the mode of collection of the Cess may not be easy. For example, while in the case of the Cess Act, the Cess collection by the local bodies at 1% of the cost of construction is easy. In the case of, say agriculture, the problem of levy and its collection will be enormous. If, for this reason, we think of a single fund for all sectors, then it may be more logical to have a universal social security levy rather than different kinds and levels of levies for the various sectors.

Considering that 92% of the work force is in the unorganized sector and such workers and their families constitute the bulk of the population, is a system of universal social security not preferable? How will this be designed, particularly in the matter of financing and prioritizing the various kinds of social security benefits, are all details that need to be worked out. This will require the adoption by the country of a National Social Security Policy which should contain the resolve that the present level of pension expenditure on social security as a percentage of GDP be progressively raised, so that by the next two years or so at least 15% of the GDP is set apart for social security.

QUESTIONNAIRE ON WOMEN CONSTRUCTION WORKERS IN A STATE

1. (a) Number of women construction workers in the State.
(b) As percentage of total number of construction workers in the state.
2. Nature of work done by women.
3. Have machines come on to replace labour and how far are women affected.
4. Wages fixed by State Govt. under Minimum Wages Act 1948 for women construction workers.
5. Wage fixed by State Govt. for similar work done by men under minimum wages Act 1948.
6. Average Number of days of employment per week/in one year.
7. Nature of work records maintained on the site.
8. Coping mechanism for non employment periods.
9. Any scheme for accident relief in force in the state details.
10. Any welfare scheme for construction workers in the state.
11. Any scheme for providing maternity benefit to women in the State and state of implementation.
12. State of implementation / non implementation of Central Acts.
13. ICDS scheme and its impact / limitation for women construction workers.
14. Workmen Compensation Act cases - Time taken for getting compensation.

QUESTIONNAIRE FOR INDIVIDUAL WOMEN CONSTRUCTION WORKERS

1. Name, age and address Woman Construction Worker.
2. Nature of work
3. Wage Received
4. Daily / Weekly payment
5. Deductions
6. Wages paid to men for similar work
7. Number of days of work per week / per annum
8. Have machines come in?
9. How do you manage during non employment periods?
10. Any accident - details
11. Any maternity relief
12. Any child care facility in your area.
13. Do you educate your child or bring the child to work
14. Housing own / rented details basic amenities.
15. What would you consider as the problems and the basic needs.

**REPORT ON THE STATUS OF WOMEN WORKERS
IN THE CONSTRUCTION INDUSTRY**

Authored by
MS. SUJATA MADHOK



**NATIONAL COMMISSION FOR WOMEN
NEW DELHI**

FOREWORD

The National Commission for Women (NCW) which is a statutory body constituted in 1992 under the National Commission for Women Act, 1990 to protect and promote the interest and safeguard the rights of women has supported the cause of women in the construction industry for over a decade. In 1994 the NCW undertook a public inquiry on women in the unorganized sector, with particular emphasis on the construction sector, at Chennai and other places. Shri Justice V.R. Krishna Iyer (Retd.) was on the jury at the public enquiry. The Commission endorsed the recommendation for tripartite Construction Labour Boards. In 2003-2004 the Commission sponsored a series of five Public Hearings on the Status of Women Construction Workers, in the State capitals of Jaipur, Bangalore, Delhi, Mumbai and Patna. The Report and recommendations of these Hearings are included in this document.



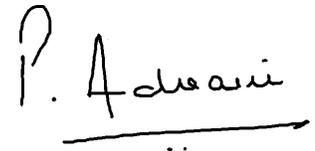
The construction workers are the backbone of the economy as they create the infrastructure necessary for industrial growth. In a globalising economy, it is they who are constructing the new economic zones, the IT cities, the call centers and mega malls that are creating new forms of wealth today. (Almost one third of these workers are women and children). Yet these workers, who create the base of the new economy, themselves live in a time warp, trapped in low shrilled, low paid, insecure waning conditions, harmed by federal working relationships, often literally in bondage. In a globalizing economy, it is they who are constructing the new economic zones, the IT cities, the Call Centres and Mega Malls that are creating new forms of wealth today. About one-third of these workers are women and children.

From the inputs received it is observed by the Commission that the situation of construction workers is worse today than before, as globalization has brought with it the perils of mechanization and loss of jobs. Although there has been substantial growth in the construction sector in recent years, this growth has actually led to a decline in the availability of jobs. The large construction companies can afford giant machines that work at high speed, replacing manual workers. A classic example is New Delhi's Metro Rail Corporation that uses a small number of workers to execute a mammoth project.

Therefore, the Commission is of the view that serious reconsideration of labour-displacing technologies and policies is required. There is also a need to give older, retiring women training in alternative income generating skills. Given the prevalent insecurity and underemployment among workers, it is imperative that social security measures be extended immediately.

It is of utmost urgency that the state governments implement the social security and welfare laws that were enacted in 1996, without further delay. If necessary the Delhi rules can be adopted as model rules. These rules also have the advantage that they have already been translated into Hindi.

I hope that the Report will generate interest and awareness among the authorities and law-makers and the suggested recommendations will be incorporated in the existing laws relating to women & children workers in the construction industry.

A handwritten signature in black ink, appearing to read 'P. Advani', with a horizontal line underneath it.

POORNIMA ADVANI

Chairperson

National Commission for Women

Place : New Delhi

Date : January, 2005

NCW TEAM
5 Public Hearings

JAIPUR

Mrs. Nafisa Hussain

DELHI

Dr. Poornima Advani

Mrs. Sunila Basant

PATNA

Mrs. Baby Rani Maurya

MUMBAI

Dr. Poornima Advani

COCHIN

Dr. Poornima Advani

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