

JUSTICE DENIED TO CONSTRUCTION WORKERS

National Campaign Committee for Central Legislation on Construction Labour is holding a National Convention on 24th March in Delhi to urge for comprehensive protection to construction labour through amendments to central laws and for speedy implementation in States and Union Territories.

Construction workers number over two crores in India and thirty percent are women and children. They sweat and toil and even shed blood to construct the dams, bridges, buildings, railways etc., Half of the plan and Budgetary expenditures are spent on construction activities, whatever be the field or region. They are the real builders of the nation.

Jawaharlal Nehru called the factories the temples of modern India. Construction workers, the builders of modern temples have been treated as untouchables by the system of society, Law and governance. Even after decades of struggle, the Central Govt. has cared to pass only namesake legislations, remaining unimplemented throughout the country.

Construction workers in Govt or private sites, work under a system of contract and subcontract. Construction workers start their worklife by the age of ten and continue till even 70 years since there is no terminal benefit or pension. They are invisible on records, not paid minimum wages even on Govt sites, exploited and bonded especially to big contractors. Child Labour, even though banned by law in hazardous occupations, is a reality on construction sites.

It is not uncommon to see pregnant women working hard till the delivery, babies in cloth cradles, and toddlers playing in sand and cement dust exposed to hazards of worksite. Accidents are an everyday affair while there is no speedy measure to provide medical relief or compensation. Asthma, tuberculosis and frequent respiratory difficulties due to inhalation of cement and sand dust, cancer due to paints as well as exhaustion and severe physical pain are commonly found among workers.

The construction workers are recruited either from marketplaces or directly from slums and villages or else brought from rural areas and housed on big sites. In the former the number of days of work will be less while the payment is more while in the big sites the wages are the lowest.

In monsoon, there is no employment and at the same time the prices of bricks and sand also soar. Indebtedness during monsoon, periods of sickness, delivery are features of the workers' lives. In quarries and brickkilns as well as in big construction sites, a system of bondage exists and gets reproduced from one generation to the next through the Child Labour.

Building houses to mansions, themselves left to live on the roadside or in slums and often victims of eviction and slumfires.

The existing laws for contract labour and for minimum wages or equal remuneration are supposed to work on the basis of inspection - prosecution - fining while the work itself may be over before the end of the legal process. These laws do not protect workers against victimisation thus they have become unsuited to protect the labour. Also the employer employee relation changes and workplace also shifts constantly while the existing social security Laws are not suited for this changing situation.

Hence National Campaign Committee for Central Legislation on Construction Labour had suggested that in the absence of a sense of responsibility on the part of principal employers and contractors for the labourers, a participatory tripartite mechanism would have to pin down everyone's responsibility to protect and provide for the labourers. Registration of all workers and employers regulation of employment through the Board and social security measures such as ESI, PF, Pension, maternity benefit and welfare measures such as creches and housing to be provided by the board through a levy of two percent of the estimate cost to be collected from all constructions before plan sanction, compulsory registration of accidents and strict supervision of safety and provision of skill training to workers especially women. The Board would have substantial representation of workers, with proportionate representation for women. The Board must be constituted at State District Taluk and Local levels.

In TamilNadu Construction workers got organised at the State level and continuously agitated from 1979 for legal protection and in 1985 initiated a National Seminar in Delhi participated by workers from all over the Country and it was the construction workers who made concrete suggestions regarding tripartite boards and their functions. NCC - CL composed of independent as well as Central Trade Unions was constituted and Justice V R Krishna Iyer elected unanimously as Chairman. From its inception, NCC - CL has been relentlessly campaigning for a Comprehensive participatory Central Legislation.

A model Bill and scheme was drafted and a petition signed by Lakhs of workers submitted to Parliament's petitions committee at the end of a procession held in New Delhi in December 1986.

Campaign activities as meetings, conventions, Dharnas had been conducted continuously in the last fifteen years to press the Central and State Govts. In 1988 Govt introduced a Bill which only had safety measures and the Petitions Committee gave a recommendation that the official Bill must be withdrawn and a comprehensive Bill in the lines of the Bill drafted by NCC-CL be enacted and that NCC-CL must be consulted in the legislative process.

In 1990 a massive rally of construction workers in Delhi urged the National front Govt to fulfil its election promise to implement the recommendations of petitions committee.

It was Ram Vilas Paswan as Union Labour Minister who convened a National Seminar and secured a National consensus for formation of tripartite Construction Labour Board. But the Govt was shortlived and the Bill was not introduced.

In 1995 two ordinances were promulgated without consideration for the NCC-CL's view. There were nationwide demonstrations of construction workers and protests in Delhi too.

Of the two ordinances one was on cess collection and the other presumably for regulation of employment and conditions of service, Contrary to the title, and latter contained mainly safety provisions and certain provisions like in the Contract Labour Act and a Welfare Board treating construction workers as beneficiaries. It has been evolved with little understanding that unless workers become active participants in the implementation, the Law would remain on paper only.

Law

The Ordinance does not provide for social security measures such as ESI or Provident Fund. Maternity benefit and creches are absent. House building workers are excluded from the purview of the law. The system of registration of workers by the Board is not compulsory and also there is a stipulation of applicability to sites where minimum of 50 workers are employed. Also house building activity costing over ten lakhs only are covered by the Law. These lacunae need to be removed and tripartite Construction Labour Board need to be set up in all States with functions as suggested by NCC-CL.

In 1996 during UF Govt, the ordinances were introduced as Bills which were keenly debated in Parliament, actively participated by George Fernandes of Samata Party and Palani Manickam of DMK. There was intense lobbying by NCC-CL and in Tamil Nadu Nirman Mazdoor Panchayat Sangam agitated to include an exemption clause for State level Laws and schemes which were more beneficial to construction workers. The State Govts of Tamilnadu and Kerala also asked for the exemption clause and it was included.

Due to the intense debate and lobbying the Cess Bill was amended to increase levy from one to two percent and to accrue the levy amount to State Welfare Boards instead of Consolidated Fund of Govt of India and to provide for collection of levy before plan sanction by local bodies. The applicability clause was reduced from 50 to 10 workers.

Kanpur, Mumbai and
In ~~Ahmedabad~~ there were public meetings organised by ~~SEWA~~ and ~~AICTU~~ to demand for the implementation of Central enactments by State Govt.

In Pondicherry there was a massive demonstration by NMPS construction workers in December 1998 and the Govt is yet to frame and notify the State Rules.

In Tamil Nadu, construction workers have been agitating for a scheme drafted by NCC-CL under Tamil Nadu Manual Workers Act which provides for tripartite Board and to remove the lacunae in the earlier Scheme secured after long drawn struggle. The levy collected in the State is only 0.3 percent and the question arises as to how better benefits could be given.

by Central Trade Unions ^{and} independent union

In Kerala, there is massive unionisation and there has been a welfare Board doing commendable welfare Work and now the Rules have been notified under the Central Act and including the already existing benefits.

Nowhere, not even in the National capital of Delhi, have the Central Acts been implemented and workers benefited. Central Rules notified only a few months ago contain scores of pages detailing safety provisions and a few relating to certain conditions of work to be provided by the employer. Not a word on the welfare Board or the expenses for which the money collected under the Cess Rules would be defrayed.

The intention is clear. The Law and the Rules have been tailored to satisfy the ILO stipulation on construction safety and not to protect and serve the needs of our construction workers nor even in response to petition committee's recommendations. So much for the patriotism and accountability of our rulers.

In construction, public sector was started with the express purpose of carrying out Govt constructions. The prestigious steel plants were built by HSCL and power plants by BHEL. In the era of globalisation, due to pressure from international agencies a system of global tenders have come in, bringing Enron and ABB. Public Sector is being dismantled and mass of workers denied employment. HSCL Workers have been agitating for unpaid wages and regular employment.

The leaders of our freedom movement stated that freedom was meant to wipe every tear from every eye. Gandhi and Ambedkar were of the view that political class must observe simplicity and that manual work must be respected.

In the era of WTO, the political class makes money by commission from foreign companies and Pay Commission deems fit to fix Rs.30,000 as salary for Secretaries. But the actual workers who toil to make the Budgets and Plans a reality are being denied justice. The new casteism is the continuation of the old system and the sweated labour gets no respect.

Is there a social conscience in our country? For the deprived, there is no other go but to continue the struggle for true freedom.