

Build A Radical Movement of Construction Labour



बंदूक मजदूरी, नियमित काम, लहकर लगे सामाजिक सुरक्षा, हक और सम्मान



मजदूर अधिकार रैली

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AICWF इसकापी **AICCTU**

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Construction Workers Observe All-India Demand Day

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Build A Radical Movement of Construction Labour

Workers Building the Nation

India's 50 million construction workers are the builders of modern India. They build roads, highways, railway tracks, 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 construction workers, who are creating foundation for the new economy are living in semi-bonded conditions with low pay and insecure and unsafe working conditions. Almost one-third of these workers are women and children.

The construction industry is one of the main contributors to the country's Gross Domestic Product (GDP) and thus plays the role of a key driver of the Indian economy. The construction industry is a labour - intensive industry employing more than 50 million people in the country – second largest workforce after agricultural labour.

At the end of 2016, construction industry in India had a turnover of around 157 billion USD and it was expected to grow at the rate of 8-10 % per annum over the next ten years (Trading Economics website-2017). Covid-19 has slowed down the growth rate in 2020 - 2021. In March 2022, the sector's contribution to the GDP was around 4.9%. But the construction sector recovered quickly and its contribution to the GDP stood at 10.4% as on March 2023, as reported by the National Statistical Organisation

(NSO) on 31st May 2023. The sector contributes substantially to the country's GDP and its capital formation.

Due to the worst working conditions and low wages in the sector, as far back as in 1960's, the study group on construction workers of the 'First National Commission on Labour' recommended decasualisation of employment in construction sector. But, unfortunately, the recommendation was completely ignored by the government.

No accurate figures are available regarding the numbers employed in each branch of the construction industry, but since it comprises activities ranging from building small houses to mega dams and bridges, roads and railways, it is amply evident that construction sector is a major employer. The Second National Commission on Labour estimates that the construction sector employs about 16 percent of the country's workforce.

As it stands, there are grave issues with functioning of the BOCW Act. Though government states that there are 5.1 crores of construction workers, as per its own figures, only 3.92 crores are registered. Thus, there are more than a crore construction worker without registration and facilities under the Act. Moreover, the recording of accidents is gravely lacking – the central government only recorded 32 accidents in construction sites in the central sphere between 2017 and 2019. Similarly, the number of prosecutions as opposed to violations illustrates the leniency shown to violative actions by employers.

A Gateway to Urban Employment

The government is the largest principal employer for construction workers as it undertakes large scale construction and building work. It is responsible for building the nation's infrastructure and also for its maintenance. But, the government projects are being handed over to private players and we also witness PPP (Public Private Partnership) and BOT (Build Operate and Transfer) models in numerous cases. The role of government's own agencies is being restricted and limited. The role of public construction agencies like the Central Public Works Department (CPWD) and public sector firms, such as National Building and Construction Corporation (NBCC) are reduced to play a regulatory role rather than directly engaging

in construction activities. Most construction activities of the government in the post-liberalisation era are undertaken by private construction companies.

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

The Second National Commission on Labour estimated that some 200 construction companies comprise the top rung of the industry, followed by 90,000 middle level firms who fall under the category of class "A" contractors. At the bottom are some 6 lakhs of small firms / contractors and sub-contractors.

The construction industry is mainly comprised of two components - Infrastructure and Real Estate.

Infrastructure sector mainly involves building roads, bridges, ports, rails, power, urban transport, dams and other building projects related to developing country's public infrastructure.

Real estate sector comprises of housing, retail, hospitality, residential, industrial and commercial. The Indian Real estate is estimated to grow to 180 billion USD industry by 2020 (www.ibef.org, 2017).

Construction sector in India is one of the largest employers of migrant and casual workers. It acts as a gateway for urban employment. Rise in migration is driven by employment distress in rural areas indicating dwindling rural employment. Left with no other option for livelihood, rural workers are being pushed to urban areas in search of employment. We also witness dual identity among workers who are seasonally engaged in both agricultural and rural operations and also in construction activities. On the other hand, comparatively better opportunities are being witnessed in construction sector because of rapid growth of small towns and cities across the country.

Domestic and Foreign Corporates Staking Claim

The construction sector is witnessing rapid change in the post-globalisation phase of the country. In the wake of globalization, the construction sector has witnessed a boom and is being dominated by corporate houses and multinational companies.

The private sector is playing a leading role in infrastructure development in addition to playing a major role in industrial, commercial and residential development of building properties. Private sector and foreign investment are being encouraged by government policies. Under the prevailing WTO regime, the essential requirement of global tendering has also facilitated the entry of MNCs in the Indian construction industry in a big way.

Major large Indian companies in construction sector are L&T, DLF, SAFAL, SAVVY, Afcons, etc. Major foreign companies which have already arrived are Bechtal (USA), Hyundai (Japan), Mitsui (Japan), Obayashi (Japan), Sandesa (Sweden), Traffel House (UK), Dubai Port World, etc. Many world leaders in the construction industry have already arrived staking claim on various projects including building of petrochemical plants, refineries, factories, roads, bridges, and metro rail.

Ultratech, ACC, L&T, Birla Cement, Ramco, NUVOCO, Prism Johnson and other companies have entered into the growing business of Ready Mix Concrete (RMC) and are promoting it in a big way, arguing that it can be laid faster than traditional concrete that is manually mixed on the site.

Highly technology smart and equipped with huge paraphernalia of latest machineries and methods of construction, the entry of these companies is going to have far-reaching implications for the domestic construction industry as well as the labour. We are also witnessing increased use of artificial intelligence and robotics in construction industry. More than readymixed concrete replacing manually mixed onsite concrete, “readymade” buildings are becoming a reality which are only to be assembled on the site.

The report of the Second National Commission on Labour warned that the present trend towards induction of modern technology in construction industry is likely to transform the traditional labour market. It also indicated increasing mechanisation and subsequent elimination of manual and women workers from large construction projects.

Irregular Employment – Blurred Relationship

Workers are employed through the agencies of labour contractors. This contractor is the link between the principal employer and the worker. But, he basically represents the interests of the builders.

There are four methods of recruitment of labour

1. Direct recruitment of workers by the company of the builder,
2. Recruitment of workers from rural areas through labour contractors,
3. Recruitment of workers from city slums through labour contractors,
4. Recruitment of workers from marketplace (naka / chowk) by principal employers and through contractors or Mistrys (Master mason/Chief).

On large sites, builders either recruit labour themselves or arrange for other labour contractors to bring groups of workers from distant rural areas. Even when regular work is available on large sites for longer time, workers are maintained as 'temporary' and are not given any of the facilities due for regular workers. Even in large government undertakings, huge number of workers are kept as temporary for years together.

Almost 50 percent of construction workers are self-employed or employed as a part of small groups. They are a highly unorganized section of the working class in a mostly organised sector. Despite the employer – employee relationship being unambiguous, it is often interpreted as 'blurred' and "unclear". The actual employers are being wriggled out of the responsibilities towards their employees. The responsibility of employers and owners of the construction, including death and disability relief, are assigned to the welfare boards. Construction workers are denied of job security, wage security and social security.

Being seasonal, unorganized and uncertainty of continuity in the job, they are a most difficult section to be organized. Still,

compared to other sections, they are comparatively easier to be identified with the welfare board membership and it becomes the axis for organising them as well. Labour chowks and building and construction sites are other areas where we can identify workers with. Unlike other workers, they are contacted and organized at the level of labour chowk (labour corners) or localities and are, generally, not being organized based on the location of their employment fearing backlash from the employers.

Market Driven Wages

Irregular and erratic payment or non-payment and under payment of wages is one of the major issues being confronted by the workers. The contractors orally promise a wage when they recruit workers and once the work starts, they delay the payment, pay less than what was promised, and often do not pay at all. Breach of contract or no legal contract, less wages, unsafe conditions, corruption, loot, and cheating are quite rampant in the industry. Such practices that are considered to be a part of rogue capitalist tendencies are being witnessed even in corporate companies and MNCs in the industry.

The market wages are invariably higher than actual wages for construction workers in almost all states, barring a few. The state governments notify a meagre wage as minimum wage which is not sufficient to have the ends meet and it is not in conformity with the agreed formula for calculation of minimum wages. In most cases, the wages are decided by labour market pressures and by the logic of demand and supply of labour. The workers are thrown at the mercy of employers and the market conditions. Level playing field is not provided for workers. Workers are always struggling to get their dues - right from seeking a job, execution of work to payment of wages.

Wage levels, working conditions and other issues are not governed by any mutual contracts or agreements in the industry in general, and more so for workers. In spite of countless disputes, none of them are raised before any dispute resolution mechanism of the government. They are always fought outside the system. Verbal contracts are the order of the day which makes labour relations in the sector more anarchic and the workers vulnerable.

There are no official or legal contracts, but for verbal ones that guide fixation and payment of wages. In states like Kerala, where trade union movement is stronger, wage and other issues related to workers are resolved by the union. In Kerala, unlike other states, minimum wages themselves are relatively better because of longstanding workers' struggles and sacrifices.

In such a situation, streamlining labour relations in the sector require greater attention. But, the government is only working in the opposite direction. This is one sector where survival of the fittest has become a reality in terms of wages and other working conditions. The new labour Codes are only accentuating the maladies of workers in the construction sector.

Various Categories of Workers

The recruitment to big infrastructural projects is undertaken through circuits that are regional and even national, while the casual labour markets respond to specificities of local social history. The migrant workers in an infrastructural building site / a mega project site are recruited through contractors who operate and circulate workers across multiple sites in the country that involve mobilisation of large number of workers from rural areas.

A small house building construction site, however, is deeply embedded in local relations of power where trade unions influence wages through everyday intervention in the casual labour market.

Some workers sell their labour power on a daily basis. They wait at intersections and junctions in cities in the morning to meet the day's employers and / or contractors. These meeting places are called labour chowk or nakas.

The capital is all pervading and all permeating and recruit labour even from far away areas. For example, overwhelming majority of building workers in Bangalore are from North and North-Eastern India.

There are three categories of construction labourers:

- i) Local labourers who are from city and nearby villages.
- ii) Seasonal and circular migrants who migrate for stipulated period other than monsoon.
- iii) Long term migrants refer to workers with more than 5 years of service in the destination.

Composition of Workforce

There are several categories of construction workers in terms of their trade or profession. If workers are generally organised based on labour corners or localities, we may now try to categorise them based on their employment and workplace to understand the composition of workforce and to formulate a strategy to organise them.

- A sizeable section of workers is employed in big infrastructural projects like constructing roads, dams, bridges, airports, etc. Such projects and works are basically government owned but are assigned to the private builders, corporate companies or big contractors for its execution. The government becomes the principal employer in such cases. Here, the respective governments shall be held responsible and accountable for all problems of workers, including regularisation, wages, working conditions, social security, etc. Such workers may be organised based on their employer, worksites or based on the location of employment and against the government.
- Another large section of workers is employed by builders of large projects in cities and towns through contractors and other categories of middlemen. These workers are also entitled to all legal benefits including job, wage and social security. They may be organised based on their employer and worksite. The said builder shall be treated as the principal employer irrespective of the contractor under whom they perform the work.
- A section of workers is engaged in formal sectors such as quarries, brick-kilns, etc. They are the most unorganised section of workers in an organised sector. Such workers are found mostly in semi-urban, semi-rural areas. Here, the owners of the kiln or quarry shall be treated as principal employers. Such workers are entitled to all above said rights and benefits.
- There is also an emerging section of most advanced of construction workers engaged in Ready Mix Concrete industry. They are manufacturing concrete in a company plant, transport to construction site in trans-mixers and pump the concrete on the sites. This an emerging section as the share of ready-mix concrete penetration in the total concrete

manufacturing is only 15 percent as on date. This section of workers is entitled to all legal benefits but are denied those benefits as they are mostly unorganised.

- There is a large section of migrants in the above categories of workers. There are several issues specific to migrants which needs to be given a greater attention.
- A vast majority of workers are employed in small constructions, petty repair and renovation works. The employer is not identifiable. Their demands can be achieved only by mobilising them against the government. The primary unit for organising them is their localities or labour corners and the main demand is the expansion of horizons of welfare benefits to them. The demands of this section are basically against the government that is responsible for their rights and benefits.
- There is also another vast section of building workers engaged in electrical, plumbing, carpentry, steel and iron work, etc. in rural, semi-rural and semi urban areas, alongside other construction workers.

Above are the broad categories that comprise majority of construction and building workers in the country.

Occupational Diseases

Construction Workers face Occupational diseases like cough, asthma, allergy, TB, lung cancer, body pain, Silicosis and bronchial diseases. This is because construction workers work in unsafe conditions with mud, stone, cement, steel and iron rails, sand, bricks and unhygienic water. The building and construction workers are regularly facing physical, mental and economic problems in their everyday life.

According to ILO (International Labour Organisation), in Asia Pacific region, 12.7 lakh workers died in fatal accidents while on duty and 3.8 lakh workers died every year due to occupational diseases. 6 lakh lives would be saved every year if safety practices were adopted and appropriate information was provided to prevent occupational diseases.

Women and Children in the Construction Industry

Bleak Future - Unaffordable Schooling

In India, about a third of construction workers are women and children where the industry in general is male dominated. 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 because of the environment they live in. It is ironic that they are out of bounds once the building is ready or work on site is completed despite their parents, the construction workers, being instrumental in developing such new facilities. The workers and their children will have no access to the building where they were playing because it will be the time for them to move on to a new site.

There are no education facilities on sites. Even if a child is admitted into a government school, the retention in school is a problem, if the parents are migrant workers. Those workers who have settled in jhuggis or slum areas in a city and commute to work daily are more likely to have school going children. 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.

Equal Remuneration

The work in construction sites is invariably divided along gender lines. The types of work that men do are labelled as 'skilled' work and fetch higher wages, than the work women are allowed to do. Women are restricted to head-loading and 'beldari' jobs that involve fetching and carrying of materials and this type of work is labelled as 'unskilled' work. Naturally, 'unskilled' work is paid lesser than 'skilled' work which is understandable. But, we witness a huge disparity in wages

for men and women performing same and similar kind of work. A study reveals that the wage gap between men and women is around 35 – 40 percent in construction industry. Equal Remuneration Act has no meaning in this industry and no enforcement so far. The gender-based discrimination and division is one major menace yet to be tackled by authorities and the trade union movement in the country.

Even where men are hired to do 'beldari' jobs, they are paid a higher wage than women. On some jobs, men and women are treated as a couple and wages are paid to man and not the woman. It is unfair to label the woman construction workers 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, scaffolding and balancing loads of bricks. However, these are not considered skilled activities.

Gender Discrimination

In a construction workers 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 children are school going, of buying books and other such articles; meeting the medical expenses and such other exigencies are all once again forced as the responsibilities of women.

Sexual Harassment

Women who wait in the chowks or naka often find themselves leered at by prospective employers and subject to various indignities. Younger women hired through contractors are more vulnerable to sexual harassment. Sexual



exploitation at work site is a regular phenomenon and no protection is offered against it in any manner till date. Even the law does not perceive any protection for workers. Internal Complaint Committees against sexual harassment and violence to cover the entire workforce irrespective of the category of workforce, is unheard of in the industry. Even corporate companies, mega projects and organised sector of construction industry do not have any such provision.

Some Interesting Facts on Women Construction Workers

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 pass 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 21,000 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)]

The Plight of Working Mothers

Most 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 demands of child-bearing leave them in poor health.

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

"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 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 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 creche facilities for women construction workers. Sexual harassment of women workers in this industry is also quite widespread."

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 and hide from contractors in order to feed their babies while doing a full day's work. Often, women are forced to leave their babies and toddlers uncared for on the ground floor of the 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.

It has often been noticed that whenever there is any increase in demand for labour in this sector, the rise in the female employment 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 women workers than the men. 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. The situation of women

labourers is restricted to defined tasks and low wages. Women are most vulnerable to exploitation and their labour rights being violated.

Against Gender Bias! For a Decent Work!

Gender bias prevents women from learning masonry or carpentry or other specialised trades. Domestic budgets too are under pressure -- finding it difficult to manage on a single wage. Women are employed in almost all the work related to the construction process, from foundation work to masonry and beyond.

All workers and contractors should be registered. Provision should be made for safety, health, social security, housing, creches and an education allowance for children education. Provision should be made for legal aid. Sexual harassment should be stopped.

Women construction workers want society and government to ensure decent work for themselves and their partners, education for their children and pucca houses for their families. They want equal remuneration and social security.

Women have to struggle for their rights. Women must organise at their workplace and demonstrate their collective strength.

ILO formulated the following seven basic rights of women workers

1. The Right of Equal Pay (ILO convention no. 100)
2. The Right to Equal Treatment (ILO convention no. 111)
3. The Right to Equal Training and career opportunities (ILO convention No. 142)
4. The Right to Maternity Protection (ILO convention No. 3 & 103)
5. The Right to combine work and domestic responsibilities (ILO convention No. 156)
6. The Right to paid work (ILO convention No. 168 & 158)
7. The Right to safe and healthy work environment free from sexual harassment (Resolution on Equal opportunity and Equal Treatment for men and women in employment, 1985)

Migrants and Bondage in Construction Sector

In 2002, the Second National Commission on Labour 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."

Conditions of Bondage

This is an area where little data exists. However, it is self-evident that there are 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. More so because of drastic cuts in allocation for MGNREGA. Often, they are hired from distant places and become completely dependent on the contractor because they do not speak the local language and consequently are cut off from the local population. Although protective legislation for migrants exists, for instance the Inter State Migrant Workmen Act, it is never implemented. The contractors usually advance a sum of money to the migrant workers and pay for the travel to the worksite, virtually rendering them bonded labour.

In several states, migrant workers face the apathy of locals as they are perceived as taking over local jobs. The hostility makes their situation even more vulnerable. In fact, such a possibility of hostility among migrants and locals was orchestrated by BJP to create fear and hate mongering among migrants by circulating fake videos of some stray incident in Tamil Nadu. In some states, for example, migrant workmen are being excluded from registration with the state welfare board.

We also find some linguistic chauvinistic groups demanding inner-line permit for migrant workers in destination states like Tamil Nadu which we vehemently oppose. We also reiterate that we will not allow any conspiracy to divide the working class of the country while providing support to and protecting due rights of cultural and linguistic nationalities and ethnic groups. Imposition of Sanskrit and domination by some super rich belonging to some specific linguistic groups cannot be equated with toiling, poverty ridden, downtrodden migrant workers.

Bondage in Brick Kilns and Quarries of U.P.

It is significant that there are large numbers of such seasonal, migrant, bonded workers of brick kilns and various types of quarries.

We see the migration of Adivasis from Chhattisgarh towards North India to the quarries and brick kilns of the Ganges delta in Uttar Pradesh (U.P.). Migrants face exploitation by railway staff and police en route. Migration is usually in a large group led by a contractor. Once they reach their destination, migrants are settled in camps. The camps by and large consist of enclosed groups of 40-50 huts (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 to provide these facilities, although they are legally bound to provide the same.

The brick kilns of Uttar Pradesh, where at a conservative estimate about half the (Chhattisgarh) 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 are hiked up. The atmosphere at the camp 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.



Migrant Construction Workers: A Vulnerable Group

Both migrants and non-migrants in the construction sector are largely informally employed, with about 90 percent of migrants in rural areas and 67 percent in urban areas working as casual wage labourers. Migrant construction workers are mainly unskilled seasonal migrants who work as wage labourers in the agrarian sector. Data reveals a close relationship between wage labourers in construction and agricultural work. Estimates from NSS 2007-08 show that most of the rural-urban migrants in construction used to work in agriculture (47.30 percent) or construction related activities (45.60 percent) before they moved into urban areas. Data for rural-rural migration tells a similar story. Some of this movement is short-term in nature, with people regularly moving back and forth between farm and construction work. About 5.5 million short-term migrants were employed in construction during their longest spell of movement, as per the NSS 2007-08, which is about 40 percent of all short-term migrants.

This number is equally high among long-term migrants (6.3 million). Further analysis reveals that out of all persons who are currently employed in agriculture and have a history of short-term migration, about 36 percent worked in construction when they migrated; construction remained the second largest sector after agriculture in their work profile. Similarly, for people currently working in construction, agriculture is the second largest industry of employment when they migrated short-term. Thus, short-term construction migrants face constant economic uncertainty owing to a perennial engagement in informal work.

Limited Legal Protection for Migrant Workers

The existing protective legal framework for migrant workers is the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (ISMWA), designed to protect the interests of labourers who are recruited and subjected to exploitation by contractors. It provides for registration of establishments employing inter-state migrant workmen, and licensing of contractors. Safeguards include non-discrimination in terms of wages vis-à-vis non-migrant workmen, payment of travel and displacement allowance, and suitable work conditions, in the form of obligations placed on the contractor. However, the ISMWA is of limited utility to those who migrate on their own.

Vulnerable Women and Children Migrants

Although the migrant workforce in construction is male-dominated, the share of migrants in overall female construction workforce is higher. NSS data shows that about 87 percent of the migrant women working in construction are not the head of their households, indicating that they have not moved alone and are not living on their own.

Most migrant construction workers are working adults (20-60 years) of both genders whose children move with them, in both rural and urban areas. Along with adults without children, they constitute nearly 70 percent of the migrant construction workforce in both rural and urban areas. Also, 26 percent of all households with a migrant in the construction sector have a size of three members or less with at least two working adults of different genders, further corroborating the significant presence of associational migrants in construction.

Migrant construction workers, far away from their home and community, they work more and get paid less in dangerous working conditions. Time and again they become an easy prey to regional and communal forces. They have to face all sorts of intimidation, discrimination and humiliation. Migrant construction workers lead their lives in perfect hell throughout country. In the absence of basic amenities and security at workplace, they become victims of accidents and diseases.

With the advent of the era of liberalization, construction industry has attained the status of the target profit generating industry of the country and has overwhelmingly been overtaken by giant enterprises and multinationals. Migrant workers now have to face the most brunt of liberalization. Under these circumstances migrant construction workers have to organise themselves to fight for their better living standard, dignity and social security and to push back the neoliberal economic policy of the government.



The Story of Cess

States have collected over Rs. 78,521.24 crore as cess for the welfare of workers in the past 25 years -- with Maharashtra and Karnataka topping the list -- but have spent only around 45 percent so far.

The statistics collected by the Ministry of Labour and Employment showed that the states and union territories together spent only Rs 35,399.40 crore (55.09 per cent) and have Rs. 43,121.84 crore or 54.91 percent of the cess collected as unspent. (Figure as on 22 March, 2022.)

The Building and Other Construction Workers Cess Act, 1996 provides for the levy and collection of cess at 1 percent of the cost of construction. This cess is collected by states in the Building and Other Construction Workers Welfare Cess Fund.

Among the states, the top collector of cess was Maharashtra, but 73.02 percent of the cess collection remain unspent. For Karnataka, the collection was Rs. 11,108.87 crore, but the spending was just Rs. 3,656.96 crore, leaving Rs, 7,451.91 crore unspent.

When it comes to the unspent funds, Uttar Pradesh tops the list. It has collected Rs. 7,144.50 crore in the past 25 years, but spent only Rs. 2,873.69 crore. Tamil Nadu followed UP with 61.79 percent of funds being unutilised.

There are two states that have bucked this trend -- Kerala and Mizoram actually spent more than what it collected as cess to settle welfare claims of construction workers. Kerala spent 54.51 percent more than what it collected. Similarly, Mizoram spent 3.8 percent more than the cess it collected.

According to a written response by Minister of State for Labour Rameswar Teli to a question raised by BJD's Amar Patnaik in Rajya Sabha, the capital Delhi has 82.93 percent of collected funds in the unspent account, while West Bengal has 65.28 percent unutilised.

Haryana, which comprises a construction hub Gurugram near Delhi, collected Rs. 3,337.23 crore, but spent only Rs.

1,395.61 crore. Gujarat collected Rs. 2,013.84 crore, but spent Rs. 545.29 crore.

In March 2020, just before the national Covid-19 lockdown, the then Labour Minister Santosh Gangwar had written to the states to dive deep into over Rs. 52,000 crore cess fund and transfer money to around 3.5 crore workers registered with authorities.

It appears that states have dispersed around Rs. 10,000 crore to workers in the past two years.

The Labour Welfare Boards collected cess amounting to Rs. 49,688.07 crore till March 31, 2019, out of which only Rs. 19,379.92 crore were spent.

In August 2017, the Parliamentary Standing Committee had also raised similar concerns saying the Welfare Boards set up by states collected Rs. 32,632.96 crore as cess towards the welfare of construction workers in 20 years, but spent only a dismal 23 percent or Rs. 7,516.52 crore, which included Rs. 375.82 crore towards salaries of the officials who run the state welfare bodies. (Provisional figures as on 31.03.2018).

We should demand collection of 3 percent of total expenses as cess and be spent fully and only to the requirements of constructions labour.



COVID-19: Impact on Construction Workers

The impact of COVID-19 on labour market is deep and much severe than the previous economic crises. Globally, 81 percent workers bore the brunt of the pandemic, 225 million jobs were lost, and it is to be noted that labour income has declined by 8.3% in the year 2020 (ILO, 2021a). The destruction of jobs and labour income has disproportionately affected the young, women, unprotected, disadvantaged, and migrant workers across the world (ILO 2020a, 2021a).

In many economies, the young labourers, who were already battling (high) unemployment before the pandemic, are now vulnerable due to the falling labour demand during the crisis. Sectors where women were fairly represented have been hit hard; unprotected workers are disproportionately affected because of lack of social security benefits such as provision of paid or sick leave. The plight of the poor and vulnerable migrant workers has become visible in this period. They faced multiple challenges, including not getting their due wages from their employers, loss of employment, inability to access new jobs, and inability to pay accommodation rent (ILO, 2020a, 2021a)

The Pandemic and Job Loss

The crisis in India came in the backdrop of the pre-existing labour market fragilities reflected in higher informality, poor social protection, and high unemployment rate. According to the Periodic Labour Force Survey (PLFS) 2018–2019 data, around 90 percent of the total workforce in India is informal, working without a proper job contract and social security. These workers living in the countryside and in slums of mega-cities were already working in poor conditions and living in filthy environment, and the disruption in economic activity and mobility restriction during lockdowns further increased their vulnerability. The impact was felt most by the migrant workers working in the informal sector. According to

an estimate, in the urban labour market, 51 percent workers are migrants and a significant proportion (111 million in 2017–2018) comprise circular migrant (who shuttle between their native and the work places) workers. Due to social fragmentation, unstable accommodation, poor entitlements, and lack of organisational and political voice, they have a weak foothold in the urban labour market. Even during the second wave in mid-April and May 2021, lakhs of circular migrants returned home in anticipation of the spread of the virus and due to lock-down in major part of the country. According to a report by the Ministry of Labour and Employment (MoLE), around 1.3 million workers left Delhi during mid-April and May 2021 (Hindustan Times, July 2, 2021). A cessation of economic activity has had severe impact on employment and income. Estimation based on Centre for Monitoring Indian Economy (CMIE) CPHS data on employment showed that more than 100 million people lost jobs during first wave in March–April 2020. Though jobs recovered to some extent after unlocking of economic activities, overall annual employment in 2020–2021 was below the pre-COVID level.

During the COVID-19 crisis, their financial and occupational conditions became highly deplorable. Migrant construction workers faced significant economic hardship due to loss of jobs and unhygienic and improper living conditions in which maintaining social distancing may not be possible (ILO, 2021b).

COVID-19 in India also showed that alongside the service sector, construction has been the worst affected sector. The decline in employment was also very sharp. As per CMIE data on employment, the year-over-year (YOY) change in construction employment was (-) 55.4 percent in the first quarter of 2020–2021. In absolute terms, 34 million workers lost their jobs in the first quarter.

More than half the labourers earned between Rs. 200 and Rs. 400 a day to support a family of four. They had no ration left for the day, let alone for the duration of the lockdown. Thirty-three percent of the workers were still stuck in destination cities with little or no access to food, water and money. A staggering 90 percent had lost their source of income in the three weeks since the lockdown.

Banging Thali and Peoples' Lives!

Despite having one of the world's strongest PR (public relation) machineries, which broadcast the Prime Minister's thali-banging and lamp-lighting events very successfully, information about welfare measures to assist the needy failed to reach the workers.

Overall, it is not specified whether migrant workers also benefited from the cash transfer as in many states proof of domicile is required for registration. Although the BOCW Act 1996 is the single largest provision for construction workers, many states have not accommodated these migrants in the registration and welfare provisions. In some states, rules are also not clear.

The details of how the PM CARES Fund will be utilised has not been made public. Majority of construction workers did not have any information about emergency welfare measures provided by the government and many workers did not know how to access existing schemes. The absence of assurance of any state assistance added to the fear and confusion.

The Exodus

The mass reverse exodus proved that if one was unable to work, then there was nothing left for a migrant in a city, and they had no social community to fall back on.

It is also symptomatic of the exclusion of the migrant population from all social safety mechanisms. It is further unacceptable that the welfare of migrants was not mentioned even once in any of the directives issued by State agencies until it became impossible to avoid the videos and pictures of large groups of migrants walking in deplorable conditions.

Issues concerning migrant workers in India has been a constant struggle behind the scenes at India's industries and construction sites since the people started moving to cities in search of work decades ago. Yet it took a global pandemic, a nationwide lockdown, and a flurry of headlines to wake up to the harsh reality that is an everyday battle for many.

When the Prime Minister of India first announced the lockdown following the COVID-19 outbreak, he asked the country to "forget what it's like to step out of the house for 21 days". For most of

us, the immediate concern was being confined within four walls for a foreseeable future. However, for almost one-tenth of our population dependent on seasonal migration for work, boredom and inconvenience is an unaffordable luxury.

Insufficient Measures

The government stepped in to try and provide food and cash transfers for the workers so they would be able to pay rent and stay put in the city during the lockdown duration. However, this response was insufficient. This is partly because of technical restrictions or a hasty response to the crisis resulting from lockdown. Many in need of assistance were not included in the list of beneficiaries.

Many do not have the proper paperwork and consequently aren't registered to be on these lists. Of those who were enlisted to receive these cash transfers, a significant number did not have bank accounts let alone net banking systems and access to ATM cards.

Long Road Home

The migrant workers wanted to return to their families and villages in these difficult times. However, transportation services were inaccessible, and they had to undertake their journey on foot. They did not have enough money to provide for themselves for the duration of the journey. Further, they were subjected to police harassment for not following lockdown rules. Even those who made it to state borders were often stopped and prevented from entering and were asked to provide documentation which they did not have.

Many have lost their lives during long-long journey. Many speculated that the workers would carry the virus back to villages. With the ease of restrictions, workers are now returning to the cities in search of work. Back to the same difficult circumstances that have been further exacerbated by COVID-19.



Deception of Cash Transfer

The Indian government implemented a cash transfer programme along with in-kind support to provide a kind of subsistence allowance and short-term relief to construction workers during the crisis. Some states such as Bihar and Maharashtra also provided in-kind support to construction workers and bore the (special) rail and bus fares of migrant workers returning to native places. To provide cash assistance to construction workers, MoLE under Section-60 of BOCW Act 1996 advised all states and CWBs to frame a scheme under Section 22 (1) (h) of the Act for transfer of funds in the accounts of construction workers through DBT mode from the cess fund collected by CWBs. According to MoLE advisory, about Rs. 520 billion was available as cess fund, which may be given to 35 million registered construction workers. In the period of lockdown, only 1.23 crore workers, that is less than a quarter, received any welfare benefits.

In response, most states and union territories through CWBs provided cash assistance to construction workers whose registrations were renewed, and bank accounts were seeded with Aadhar. This, however, left out a significant number of those who were not registered. So far, the government claims to have provided Rs. 56.18 billion cash assistance through DBT to 18.3 million workers during the first wave and Rs. 17.9 billion disbursed to 12 million workers in the second wave in April–May 2021 (Lok Sabha, 2021a, 2020; and, The Hindu, 2021).

However, analysis of the available statistics shows major discrepancies in data reporting, state-wise variation, and inadequate cash distribution. It is found that only around 52 percent of the total registered (34 percent of total estimated) workers have received cash assistance — either one-time or on periodic basis, which also implies that a large number of workers could not get the benefit due to non-availability of bank details of registered workers linked to Aadhar. Few states had not disbursed even a single penny due to the absence of such record.

The lack of uniformity in the design and implementation of welfare measures has been a major concern, and it has got more attention during COVID-19. According to Model Welfare Framework and Mission Mode Project, health, pension, skill development, and education should be given priority.

The Supreme Court in its judgement in 2018 had already given detailed directions related to registration of workers, strengthening the mechanism of cess collection, developing a composite model framework scheme in a specified time span to do away with the multiplicity of schemes, and to conduct social audit reports on the implementation of BOCW Act. Following the direction of the Supreme Court, MoLE formulated a Model Welfare Framework and Action Plan in 2018.

But, this Model Welfare Framework and Action Plan was never implemented. But during COVID-19, it came to notice that only 18 million workers (34 percent of total estimated workers) could avail the cash assistance through DBT due to non-availability of Aadhar and bank account details in the first wave. States like Bihar where details of bank account and Aadhar are mandatory to fill at the time of registration show that no account is seeded with Aadhar. Overall, the registration rate has increased, but 30 percent workers are still not registered and there is a big issue of faulty registration. With continued emphasis on registration, MoLE once again launched a Mission Mode Project (MMP) on July 6, 2020, to register all the left-out construction workers. The outcomes of the project, however, are not yet known. The latest information given by MoLE in Rajya Sabha in March 2021 shows that only 34.7 million construction workers are registered with welfare boards (Rajya Sabha, 2021b, 2020b)



The Construction Workers and the Labour Laws

A Journey Towards Enactment of 1996 Act – More Than A Decade Long Struggle

In theory, by the 1980s, some 25 laws governed the status of workers in the construction industry. In practice, however, not a single law was ever enforced.

Because of relentless workers struggle, Tamil Nadu had been a pioneer in forming a welfare board for manual labourers, including construction workers, well before the BOCW act was enacted at all India level.

One of the few strong, independent unions in the construction sector, the Tamil Nadu Construction Workers Union (TMKTS), organised a national seminar in Delhi in November 1985 to discuss the situation of 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 a 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. The NCC-CL drafted a model bill and a welfare scheme drawing inspiration from Maharashtra's Mathadi Labour Act, that regulated working conditions of headload workers in the state.

Armed with the model bill and the scheme, the NCC-CL stepped up its campaign. Some 40,000 signatures of construction workers of different states were collected on a petition and a joint rally of various trade unions was held at New Delhi in November 1986.

In December 1988, the Labour Minister introduced a draft legislation for the sector in the Rajya Sabha. The NCC-CL critiqued it because it did not provide for regulation of

employment and recommended boards that were merely advisory. There was a provision for registering employers but not workers and the focus was mainly 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.

In late 1989, around 4 lakhs signatures were collected from workers demanding a comprehensive law for the construction sector. In March 1990, 20,000 workers marched to the Parliament. Another rally was held in March 1992. Agitations and dharnas were held in several state capitals. AICCTU also vigorously participated in the movement with full spirit and enthusiasm. In October 1995, the Government issued two Ordinances which were later, on August 19, 1996, enacted as acts. 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 yearlong campaign. They welcomed the enactments, although having reservations about some of the provisions.

Construction Workers and New Codes

Implication of Labour Codes on Construction Workers

Since 1996, the employment and service conditions of BOCW workers was regulated by the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. The present central government has been strongly pushing through four anti-worker labour codes that repeal a number of existing hard-won labour laws and labour rights.

Though legislative effort to protect buyers and ensure quality constructions resulted in the passage of the 2016 RERA Act, the law governing Building and other Construction workers has been reduced to a paper tiger, with construction workers being deprived of even basic facilities that ensure dignity of labour.

The dilution of rights of workers and duties of employers in the Code will only worsen the situation. A concerted effort must be launched by construction workers unions, and other unions in solidarity, to ensure these Codes are not notified.

In this section, we have been looking at the major changes in labour codes and its implications on the workers. With respect to BOCW workers, some of the important changes are as below:

I. Welfare Board

Both the BOCW Act as well as the SS Code contemplate the constitution of a welfare board at the state level with certain functions [S. 22 of the Act and Section 7(6) of the SS Code]. However, the functions of this Board have been changed as follows:

- a. Immediate assistance in case of an accident is removed.
- b. Sanctioning loans and advances to a beneficiary for house construction is dropped.
- c. Educational function changed from giving financial assistance for the education of children of beneficiaries to framing educational schemes for their benefit.
- d. Previously, the state or central government could make provisions and improvement of welfare measures and facilities through rules. Now, any welfare scheme can be made only by the central government or by the state government only with the concurrence of the central government.
- e. New functions include framing of skill development and awareness schemes for the beneficiaries and provision of transit accommodation or hostel facility to the beneficiaries.

The Welfare Board under the Code will be newly endowed with a number of dangerous powers:

Firstly, under section 120(2) of the SS Code, the Board has the power to invest any money vested in it, subject to conditions prescribed by the government. The government should not be permitted to speculate/venture with the money of the workers.

Secondly, according to the BOCW Act, the Board may be given loans by the central government and this is continued in the Code too. However, section 120(3) of the SS Code permits the Board to raise loans and take measures for discharging such loans with the prior sanction of the central government, presumably from

private lenders. It is unclear why this is necessary, and may lead to undesirable results.

Thirdly, Section 121 now permits the Board to write-off losses in respect to cess, interest and damages due to it if it is of the opinion that the amount is irrecoverable. It may be noted that non-performing assets, written off by the government increased from Rs. 3,23,464 crores as on 31 March 2015, to Rs. 10,36,187 crores on 31 March 2018, and Rs. 8,96,082 crores as on 31 March 2020. This provision seems to equally permit the writing off of statutory liabilities of employers.

Further, the Code allows the state government to supersede welfare board if it is of the opinion that it is unable to perform its functions, or, has persistently made delays in the discharge of its functions or has exceeded or abused its powers or jurisdiction. After supersession, the state would make alternate arrangements for the purpose of administration of the relevant provisions until the reconstitution of the Board. No time limit has been provided for reconstitution of the Board.

Registration of Workers

The entitlement of registration of workers in the Code and the Act are very similar. However, the term “building and other construction work” is defined under the Code in a manner that excludes construction of residential works under Rs. 50 lakh, which can have consequences on the entitlement to registration itself. Importantly, the mandatory contribution by employer to the Welfare Fund has been done away with in the Code. Few statutory mandates in the BOCW Act that were very beneficial for the workers have been done away with, for instance, the mandate to provide identity cards.

Responsibility of Employers

The Code includes a number of responsibilities for the employer in Section 6 of the OSH Code. However, it removes two vital responsibilities, mandated under Section 44 of the BOCW Act, including (I) the responsibility to provide constant and adequate supervision of any building or other construction work in the employer’s establishment to ensure compliance with the provisions relating to safety, and that of (II) taking all practical steps necessary to prevent accidents.

Provision of Basic Facilities

The BOCW Act mandated the provision of free temporary accommodation, drinking water and latrines to workers. The Codes change these statutory entitlements to facilities that the central government may prescribe. Hence, there is no right to workers to these facilities, if not prescribed.

Application of Employees Compensation Act

In terms of Section 58 of the BOCW Act, the Employees Compensation Act (ECA), 1923, would apply to all building workers. However, the ECA has been reworked into Chapter VII of the SS Code and applies only to employees enlisted in the Second Schedule. Under the second schedule a number of workers who would fall within the definition of BOCW workers would not be entitled to compensation in case of a workplace injury. For example, workers involved in alteration of any building, etc., would be building workers, yet not entitled for compensation. Moreover, only buildings that are more than one storey in height above the ground or twelve feet or more from the ground level to the apex of the roof would be covered. A number of categories are totally excluded such as building workers involved in construction of oil and gas installation works.

Dilution of Cess

The provisions relating to BOCW cess are heavily diluted in the SS Code with provisions for self-assessment by the employer of cess and reduced rate of cess and interest.

Payment of Wages

In the BOCW Act, workers were entitled to double wages for overtime work or work done on a day of rest. Now, the Code of Wages provides the same in respect of employees whose minimum wages have been fixed under the Code (Sections 13 and 14). It is unclear whether only workers at minimum wages would be entitled to such double payment now, though that seems to be indicated by the wording of the provision.

Penalties

Firstly, penalties would be imposed on workers for violation of the Code. Section 106 of the OSH Code specifies penalty of up to Rs. 10,000 for contravention of any provision of the Code imposing a duty on the worker. The duties include a duty to comply with the safety and health requirements specified in the standards. Shockingly, if it proved that the employee had contravened his duty under the Code, “the employer of the establishment shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.” This can lead to terrible consequences that impose liability on workers for workplace accidents and simultaneously, take away the liability of the employer for such contravention.

Secondly, even in cases of most egregious violation by the employer, he will not be proceeded against! Section 110 of the OSH Code says that in case of any violation, no prosecution will be initiated. Rather, the employer must be given a period of 30 days to comply with the Code and if the employer complies, no proceedings will be initiated against the employer. Of course, this massive gift is granted only to employers and not to employees.

Cognizance of Offences

Whereas under the BOCW Act, the Court could take cognizance of a complaint on the application of a registered trade union, the OSH Code mandates the cognizance on the complaint be made by the inspector-cum-facilitator. This lengthens the process and does not guarantee an aggrieved worker an opportunity to take his case to court.

e-Shram Portal and Dismantling of Welfare Boards

The e-shram portal, with much limited or no benefits, is replacing welfare boards meant for various categories of unorganized workers. The government is planning to make e-shram as the only nodal agency to distribute welfare benefits. Several welfare boards operational under various acts, including beedi and construction, are being systematically dismantled. The Code on Social Security has made the welfare akin to purchasing some insurance policy. The more you pay, the more the benefits. Neither the government, nor

the employer is responsible for the welfare and social security of workers. Hence, it is the responsibility of the workers to challenge and stall this Code. In fact, the Code on Social Security is a direct blow on the building and construction workers.

The workers welfare and social security should be the responsibility of the government and the principal employer and should never be made the burden of workers. Such an attempt by the Modi government should be stalled at any cost.

E-shram portal is said to be made only for collection of data on unorganised and migrant workers. But, actually, it is an initial step towards dismantling all welfare boards, which is the objective of the Modi-led BJP government. The scheme applicable to e-shram portal registered members are only Rs. 2 lakh for death and permanent disability and Rs. 1 lakh for partial disability, as of now. But, the brochure issued by the Ministry of Labour and Employment has revealed its intention without mincing any words. It clearly states that it will be a data base of all unorganised workers, including construction workers, migrant workers, gig and platform workers, street vendors, domestic workers, agricultural workers, MGNREGA workers, ASHA workers, anganwadi workers, etc. Even the data available with existing welfare boards are being collected again, indicating the irrelevance of not only the data, but also the boards.

Secondly, it emphasises that social security schemes meant for unorganised workers, administered by Labour Ministry (MoLE) and subsequently by other ministries as well will be integrated with e-shram portal and thus reveals that e-shram portal will only be the portal to disburse all social security benefits to unorganised workers irrespective of whether an exclusive board exists for them or not. This effectively means that all other boards will be made irrelevant in this process. The brochure says that all social security benefits will be delivered through this portal in future, including assistance for pandemic and natural disaster like situations. Of course, it did not openly say that benefits by ruling parties, in view of elections, will also be delivered through this portal.

Thirdly, neither the welfare schemes and boards nor the Social Security Code mentions clearly about the fate of the crores and crores of funds lying with various welfare boards. It is amply clear that e-shram portal can also lead to total loot of all the money lying with various boards. Apprehensions are that even funds to the tune

of lakhs and lakhs of crores lying with ESI and PF also may not be spared in due course. It is another thing that whatever public money lying with boards are on the route to be handed over to the private insurance companies of corporates and multinationals.

Another major issue is that the e-shram may also be a route to downsize benefits being offered by various boards. We are well aware that all benefits disbursed under Beedi workers welfare scheme, one of the flagship programmes with relatively better schemes including housing, has already suspended its operations for the last several years under the Modi regime. Construction Welfare Board funds are being squandered away. Cess is being reduced a lot by the Social Security Code and buildings worth 50 lakhs or less are exempted from paying any cess.

The new concept of social security advocated by the Social Security Code, is relieving employers and the government from any responsibility for health insurance (ESI), retirement benefits (PF), gratuity, housing, education of children, etc., and only workers will be made responsible to pay for those benefits in the coming days. Welfare boards, according to the new Codes are nothing more than mediators between insurance companies and unorganised workers. An unorganised worker can get benefits directly proportional to the amount they are willing to part with as premium to insurance schemes they opt for. Hence, the responsibility for social security benefits is effectively being shifted onto the shoulders of workers from the employers and the government. e-shram portal is only a first step in that direction.

Hence, we will continue to criticise and oppose the concept of e-shram. At the same time, it is not advisable to stop workers from getting whatever meagre and petty benefits they can secure from the government – whether e-shram or any welfare board. In many states, we have our work among sections of unorganized workers which do not enjoy any welfare board provided benefits.



The Present Day Challenges

The development of trade unionism in India was influenced by several factors. In other countries too, the rise of unionism and its gradual evolution has been the result of the collective operation of various factors to bring about the much needed improvement in the then prevalent socio-economic conditions in the industrial world. Efforts were also made through organised action to give expression to the needs, wishes, aspirations and expectations of workers.

Workers in the Unorganised and Small-Scale Sector

After independence, the trade union activities of workers in the unorganised and small-scale sector gathered momentum. Trade unions of workers in shops and establishments were formed. Workers, in unorganised sector like, bidi-making were organised at different centres. The construction workers formed their unions. Even though the movement has reached workers in the unorganised and small-scale sector, overwhelming majority of workers are either not properly organised or are still outside the movement.

Redefining the Role of Trade Unions

The period after independence is marked by the advance of the trade union movement. A number of strong trade unions emerged. Larger sections of workers improved their working and living conditions. However, with collective bargaining agreements giving substantial benefits to workers, the ideological base of trade unions started losing its importance. The role of trade unions as institutions for social transformation has been relegated to the background. The fundamental reason for depoliticization is the welfare board-centric work on the one hand, and lack of participation in trade union activities on the other.

There is a tendency to look at trade unions as agencies to get more. The demands for better wages and facilities continue to dominate at the expense of other considerations. In other words, economism dominates the trade union scene.

Radical unions do not approve of pure bread and butter approach of trade unions. Workers back unions which make higher demands and achieve them. All trade unions have to fall in the line. Non-monetary issues get neglected. Some trade unions care more for the interest of their members and less for the interests of the working class, as a whole.

Under these circumstances to fight against economism and fight for social transformation, All India Central Council of Trade Unions (AICCTU) was formed and started to organise workers in different sectors as a class based vanguards with focus on class struggle for social transformation.

In a democracy, trade unions have to be concerned with economic and social policies. At the same time, they cannot be non-political.

Trade Union Struggles

However, in India temporary (contract) labourers are entitled to form trade unions, raise collective industrial demands, engage in collective bargaining which is not mandatory on employers and take strike action if necessary. There are national federations of unions representing the bulk of ordinary construction workers, but they are not known to have engaged in any collective bargaining at industry or enterprise level. The reasons given for not joining a trade union include, the migratory character of workers, illiteracy, fear of job loss and victimization. At the base of the problem is the labour recruiting system, which has encouraged the recruitment of labour based on family, caste and village ties. While most workers report that entry into the construction workforce is easy, this is only the case if the entrant has the right contacts and in particular a good relationship with a mistry or jamadar (Master mason/Chief). The construction worker will need to maintain that good relationship if he wants to be assured of regular employment.

Core workers in the head offices of large private and public sector firms in India are more organized and more active. The unions are strong, engage in collective bargaining and are capable of going on strike. However, the members are white-collar workers who have little to do with ordinary construction workers.

Since independence till 1960s, construction workers were organised here and there, under trade unions at local and district levels and registered under Indian Trade Unions Act, 1926. In the beginning, they started local-level struggles for wage increase, payment of due wages and dignity. Forms of struggle were procession, picketing and strike at local levels.

In beginning of 1980s, agenda of struggle of construction workers shifted from local demands to demands for welfare measures, social security and state-level Act.

Ten years of intense campaigning and militant struggle eventually led to the passing of a series of legislations for construction workers.

After globalization, construction industry became a booming sector. Booming sector - declining wages become the main agenda. 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 wages is rarely paid in this sector. No labour laws operate in construction, not even on the large sites. Practically all employment in the construction industry is of a casual, temporary nature. Job security is unknown.

Some Major Struggles

After globalisation, almost in all states throughout the country, construction workers unions emerged at regional and state levels and forced government to enact acts for their welfare and social security.

AICCTU-affiliated Building Mazdoor Union at Patna organised a large number of construction workers in 1989. Thereafter, in different states at different centres, construction workers were organised under the banner of AICCTU and a sustained struggle was started for implementation of the Act and formation of welfare boards in all states.

In the beginning of 21st century, AICCTU organised a large number of construction workers and formed AICCTU affiliated state committees in several states including Bihar, Tamil Nadu, Puducherry, Rajasthan, Delhi, West Bengal, U.P., Odisha and Jharkhand. The unions were actively involved in enrolment of membership, struggle for enforcement of acts, formation of

welfare boards in all states, registration of construction workers in addition to struggles for better wages, regular work and dignity. One of the major demands raised was inclusion of brick-kiln and quarry workers under the category of construction workers which became successful subsequently.

On 27 - 29 June 2008, the foundation conference of AICCTU affiliated All India Construction Workers Federation (AICWF) was held at Patna, attended by delegates from 10 states. The foundation conference of AICWF passed a resolution to intensify the struggle for higher benefits for construction workers. On 15 March 2010, a successful massive dharna was held before the Parliament. Significantly, brick-kiln and quarry workers were included under the category of construction workers after this dharna.

The 2nd national conference of AICWF was held at Ramlila Maidan in New Delhi on 26th November 2012, followed by a massive procession and demonstration before the Parliament next day. A memorandum of 10-point demands was also submitted to the Labour Minister on 27 November 2012 as a part of struggle for Decent Wages, Regular Work, Social Security and Dignified Life.

3rd National conference of AICWF held at Ranchi (Jharkhand) on 29-30 September 2016 with central slogans "Struggle against anti working class policy of Modi led BJP government" and "Against the process of de-unionisation". Delegate session of the conference resolved to fight for the demands of 3% Cess collection, proper payment of benefits, ESI, PF, housing, etc. The conference resolved to fight against corruption, loot and for representation of union leaders in welfare boards.

Almost in all states, AICCTU affiliated unions are mobilising sections of building workers working in the private small and medium scale constructions (individual houses and apartments). We organised Ready Mix Concrete workers in Bangalore, Chennai and elsewhere, rail wheel plant workers in Chhapra, Bihar and bridge construction workers of Gammon India Ltd in Munger - Begusarai, etc.



Changing Faces of the Movement

We should give proper attention to mobilise large number of workers working in private small and medium scale construction work in urban and rural areas.

Earlier, it was a phase of sustained struggle for more and more benefits from welfare boards and registration of all construction workers with welfare boards.

Now we are confronting a situation where all our rights are being snatched away. All welfare benefits are being robbed away. The Modi-led BJP government and also the governments at the states are more geared up towards facilitating the bourgeoisie/employers by providing the 'ease of doing business', while the workers' lives are being made much more difficult. Profits are being increased by depressing wages and by deceiving workers. In such a situation, we are bestowed with the task of making construction workers movement a political movement that can challenge the powers that be, and that can secure welfare as a benefit provided by the government and the employers. The need of the hour is to develop construction workers as an independent political force, as an independent political movement.

Role of Unions

The job of enrolment in welfare boards is being snatched away from the trade unions. In many cases, the rule to certify workers by the unions are changed. As enrolment is also becoming increasingly online, workers unions are at disarray or they also tend to perform the role of internet cafes where the registration in welfare board is done for a price. Workers are also comfortable in employing their local trade union leaders as facilitators for their registration in welfare boards. Now, the same role is being replaced by the internet centres.

Develop Struggling Ties with Workers

The trade union activists too, without any real earning from the organization, are left to depend on the job of doing registration in welfare boards as a proxy to some workers. In

the absence of any real class struggle, workers too are happy with paying some money to middlemen to get them enrolled instead of losing a day's wages for doing the same work. In such a backdrop, the relationship between trade union activists and workers turns into that of between a master and a servant and it ends when the money is paid for the work and when the job is done. The relationship in most cases does not extend to organizing struggles against the forces of domination in the building and construction industry. This is the irony of the situation. We need to reverse this relationship.

Union First, Board Next

In most cases, we also notice that most of the welfare board members recruited by trade union activists are not members of the union. Rather, only a small percentage is recruited to the union, while the percentage enrolled in welfare board remain very large. There is a need to reverse this situation as well.

The Class Struggle Centric Union

As most of our work is concentrated in rural or semi-urban areas and where most of the construction workers are engaged in smaller size constructions and also under some small players like mistrys, the scope for any class struggle in true sense, becomes much more limited. In such a backdrop, we need to self-introspect our own work and strive to make the construction workers movement a class struggle centric one. Making our union a class struggle centric organization is the first step towards changing the face of the movement, as a whole.

Reorientation of Construction Labour Movement

Under these circumstances, trade unions need to ponder over reorienting the direction of the construction labour movement. Politicisation of workers and concept of class struggle need to be given a greater emphasis. The construction labour movement in the country needs to be reoriented to confront the changing realities in wake of anti-labour Codes, dismantling of welfare boards and the emerging new challenges.

Following are some points on which the construction and building workers movement shall focus on:

At the level of construction workers union activities

- The construction workers unions shall recruit workers to the union first and involve them in trade union activities. Union First, Board next should be a slogan of top priority.
- Assisting workers to get them enrolled in welfare board, as they are members of the union, may be made as a secondary activity.
- In case of any corruption, misappropriation, diversion of funds, refusal to disburse benefits by authorities or others, the union should organize mass of construction workers to fight against it, instead of relying mainly on petitioning through individual workers to get the benefits. In fact, this struggle should be made the primary aspect of our functioning at trade union level.
- If we expand our work to organizing workers under builders, construction companies, brick kilns and other formal sectors, then we have a greater scope of raising various issues, including wage rise, ESI, PF, pension and other issues related to social security. We should gradually move our practice towards organizing such sections.
- Simultaneously, the trade union movement should continue to fight for safe and secure working conditions, expansion of benefits, against dismantling of boards.

Aspects of Class Struggle

- Struggles against the state for the expansion of welfare benefits and for strict collection of 3 percent of construction expenses as cess.
- Struggles against the nexus of real estate mafia, bureaucrats, builders and contractors.
- Struggles to hold the owners of the construction, builders and contractors responsible for any death or disablement while on duty or otherwise and also for the welfare. The owners of the construction and builders shall be held responsible as principal employers.
- Organise struggles of construction workers for decent wages, improvement in living standards, better working conditions, social security including decent pension, proper housing and for the dignity of labour.

The struggles against the government (anti-state struggles) can be organized at all levels, both in rural and urban areas for the expansion of welfare benefits and against non-disbursal of such benefits.

Organise the Downtrodden!

The workers engaged in construction work are socially and economically backward. Most of them hail from Dalit, backward and minority communities who are basically homeless and landless. The biggest constituent of construction workers are migrant labourers which acts as a limitation to organise themselves in pursuit of their common interest. The casual and seasonal nature of employment, dual identity, utter lack of any legal protection or social security, poverty, small, scattered size of establishments, etc., are some major constraints to pursue any common goal among construction workers. More than 90 percent of construction and building workers are still out of the purview of any trade union or organisation. One third of construction workers are women and child labourers.

We must give proper attention to mobilise large number of workers working in big infrastructural and real-estate projects. About 80 percent of construction workers nowadays working in these two sectors and are being confronted with numerous issues. These days, mega projects of these two main components of the industry are in abundance, across the country.

A large number of construction workers in these sectors are out of purview of any trade union movement till now. The trade unions must take up the task of mobilising them.

A large number of construction workers are attached with brick-kiln, stone quarrying and sand works, mostly in rural and semi-urban areas. They are the toiling and lower paid workers who have fallen prey to intense exploitation and are being treated as slaves. We should pay greater attention to mobilise them in trade unions.



Build a Radical Movement of Construction Workers

In the backdrop of new Labour Codes, particularly the Social Security Code, construction workers movement is at a crossroads. When construction welfare board is replaced by general state welfare boards as perceived by the Social Security Code, the present practice of unions is bound to face a challenge of relevance if welfare board centric practice continued. The trade unions and the workers movement have to reinvent themselves and their role in the changing scenario.

Labour Codes in general, and the Social Security Code in particular, is a major blow on the rights and benefits of the building and construction workers in the country. The Modi led BJP government has declared a war on the working class by adopting Labour Codes in the floors of the Parliament. The Building and Construction Workers Act 1996 is being undone by the Codes adopted now.

The entire burden of social security including health insurance, provident fund, gratuity, pension and housing has been bestowed on the shoulders of workers themselves. Other benefits such as children's education, assistance for marriage, tools, etc., which were supposed to have been disbursed by the boards are being dismantled. Welfare benefits are being drastically slashed. The entire concept of social security has been reversed. Crores and crores of corpus lying with boards are in great danger of getting swallowed by the government and private fund managers on the one hand and by the danger of releasing it to speculative market on the other.

Wages are dwindling in the backdrop of skyrocketing prices. Minimum wages do not even cover the bare minimum basic necessities as outlined by the Supreme Court. Informalisation of labour force is on the increase. As reported, more than 85 percent of the labour force in construction sector is informal and without any written contract and thereby denied of any protection. Hard work, cheap labour, unsafe conditions have

become a characteristic of the construction industry. Workers are not even being legitimately compensated in case of tragedies like death and disabilities.

Domestic and foreign corporates are lining up to dominate the construction and real estate sector while the workforce is denied even the basic rights. The government is not even willing to play the role of a regulator to provide a level playing field to workers who are mostly from downtrodden communities and inflicted by severe poverty.

Increasing mechanisation and adopting methods of artificial intelligence and robotics threaten the very survival of the sector as a labour intensive one. Modi government is boasting itself of adopting such labour-killing methods.

Modi led BJP government and the RSS are spreading politics of hate and are using construction workers as a pawn in their design to communally divide the country. The fascist forces in power are using construction workers hailing from downtrodden communities and ridden with poverty, as foot soldiers in their hate filled war mongering against minorities.

In such a backdrop, construction workers movement is bound to march on a path of struggle for their rights and benefits and against the communal design of the fascist forces in the coming years.

AICWF and AICCTU will be in the forefront of workers struggles to snatch back the rights and benefits for workers and has resolved to defeat the black fascist forces of reaction and obscurantism.

AICWF and AICCTU resolve to build a radical movement of construction workers and to build a new, egalitarian society.



*We acknowledge the great work done by following sources
whose contributions are liberally used in the booklet.*

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Some Major Demands

- Double the Minimum wages. Minimum pension of Rs. 10,000 with DA.
- Comprehensive social security including ESI, PF, Pension, Free housing, Education and Health.
- Ensure benefits of welfare boards to workers. Stop weakening and dismantling of welfare boards.
- Make principal employer responsible for workers welfare, deaths, basic amenities and accidents.
- Strengthen the welfare boards by increasing the cess to 3% and allocating 1% of GDP.
- Ensure enrolment of workers in boards offline and additionally online. No infringement of the rights of unions in enrolment.
- Withdraw Social Security Code and other anti-worker Labour Codes.
- 8-hour workday, double OT for extra work, Bonus, Leave, Gratuity, and other facilities on par with regular employees of the Central Govt.
- Ensure strict implementation of legal provisions to stop sexual harassment of women construction workers. Ensure equal pay and legal benefits to women construction workers, including maternity leave and benefits.
- Ensure safety and legal rights of migrant workers.
- Ensure representation of all central trade unions in welfare boards. Stop NGOisation of welfare boards. No to private agencies to handle the funds of welfare boards.
- Assured welfare and evacuation of migrants abroad by the government at the time of crisis.
- Provide shelter, drinking water and toilet facilities in labour corners or chowks.
- Form Monitoring committees for the distribution of welfare benefits comprising Central Trade union representatives under the leadership of District Collectors.
- Make regular, periodical, comprehensive health check-up of construction labour at free of cost by the government.



**FIGHT FOR DECENT WAGES,
REGULAR WORK – SOCIAL SECURITY
AND DIGNIFIED LIFE!**



4TH ALL INDIA CONFERENCE

**ALL INDIA CONSTRUCTION WORKERS
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8 - 9 JULY 2023, KANYAKUMARI, TAMIL NADU

AICWF - AICCTU





*Fight for a
Welfare Board with
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benefits including
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- Fight for Decent Wages, Regular Work, Social Security and Dignified Life!
- Fight to Reclaim our Rights!
- Let us turn 2023 into a year of waves of militant struggles!
- Let us Resolve to Defeat the Modi Regime in the 2024 elections!
- Welfare Board is Ours, Not a Tool for Government Loot!
- Welfare Board is Our hard-won Right, We will not let it be Dismantled!
- Fight for a Welfare Board with comprehensive benefits including ESI, PF, Pension and Free housing!
- Fight for scrapping of Social Security Code and other Labour Codes of Slavery!
- United Struggle against attacks on Livelihood and Rights!
- Red Waves of Struggles Against Communal hatred and Corporate Domination!
- Let us strengthen Solidarity and Unity!

