

(vi) *Assessment of Cess:*

As provided in Rule 7 of the Cess Rules, an Assessing Officer under receipt of information in Form 1 from an employer shall make scrutiny of the same and on his satisfaction shall pass an order of assessment within a period not exceeding 6 months from the date of such receipt, indicating the amount of Cess payable by the employer and send a copy of it to the employer, to the Board and to the Cess Collector within 5 days from the date of such order. On receipt of such notice the employer shall furnish a reply thereto with evidence within 15 days from the date of receiving notice.

(vii) *Date of payment of Cess:*

As per Rule 11 of the Cess Rules, the date of payment of Cess shall be the date on which the amount is deposited with the Cess Collector under sub-rule (1) of the Rule 4, or the date of deduction at source under sub-rule (1) of the Rule 4, or the

date of deduction at source under sub-rule (3) or Rule 4, or the date on which the draft has been deposited; with the local authority under sub-rule (4), as the case may be.

III. Conclusions and Suggestions

The foregoing discussions go to show that the Parliament has done a great lot of activity for the overall development of the building and other construction workers. But because of its unorganized nature, the fruits are not reaching these millions of workers. Even the Hon'ble apex Court expressed dissatisfaction about the effective implementation of the above named two enactments. Because of other pressing priority activities, even the State has no sufficient time to look into the pathetic conditions of this growing number of workers. Unless the Government interferes in the given spirit, the fate of these workers cannot be brought to the stream of workers who are enjoying welfare measures more than what they deserve.

**CONSTRUCTION LABOUR CONSTRUCTING THE NATION
BUT NOT ABLE TO CONSTRUCT THEIR LIFE**

By

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The construction labour position is somewhat different from labour of other fields. Construction activity has become an integral part of the country's infrastructure development and industrial progress. It includes schools, hospitals, offices, houses and other buildings; Urban Infrastructure such as water supply, sewerage and drainage; highways, roads, ports, railways, airport, flyover, power systems; irrigation and agriculture systems; telecommunication *etc.* In short, construction has become basic input

for socio-economic development. Besides, construction generates substantial employment and provides a growth impetus through backward and forward linkages. It is essential therefore, that this vital activity is nurtured for the healthy growth of the economy.

Construction workers are the backbone of the economy as they create the infrastructure necessary for industrial growth. In a globalising economy, it is they, who are constructing the new economic zones,

the IT cities, the call centers and mega malls that are creating new forms of wealth today. It is they who are laying the cables for a rapidly expanding country-wide telecommunications network.

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

The wages given to them are not sufficient to maintain them and their family properly. Their standard of living is low and they do not possess any reserves, which can be utilized during their sickness and unemployment.

Their wages are not enough even to meet their daily necessities. Their diet is poor and they have to live in small houses situated in unhealthy surroundings which bring diseases. They cannot afford modern costly medical aid.

Their illiteracy and absence of technical education deprives them from chances of mental and professional improvements. They are bound with caste, religion and customs and cannot move out for betterment. So they are always faced with financial problems and are forced to work under unfavourable conditions. Therefore, employers take advantage of their helplessness and exploit them.

Labourers in India, particularly those who are engaged in building and other constructions, usually belong to poor and illiterate class. India's three crore construction workers are literally the builders of modern India. They build the roads and highways, the railway tracks and airports and ports that connect the vast sub-continent and make India one country, spanning all its distances and diversities.

Booming Sector-Declining Wages

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

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

The Gender factor

Work on 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 that 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 labeled as unskilled work. Naturally, unskilled work is paid less than skilled work. This division of labour seems to be prevalent everywhere in the country. Even where men are hired to do beldari jobs, they are, by custom, paid a higher wage than women. The Equal Remuneration Act, 1936 is flouted everywhere. On some jobs, men and women are treated as a couple and wages are paid to the man, not the woman.

Hazards at Work

Accident rates are high in a hazard-prone occupation. Safety provisions are rarely observed. The first aid facilities available at sites are of little use. Most contractors do not bother to pay for medical treatment of

an accident victim, even if the injuries render the worker unable to earn for a long stretch of time. Many accidents result in fatalities. Contractors and employers usually try to cover up fatal accidents lest they be held liable. Paying off the worker's family with a small sum of money and/or quickly sending off the body to the worker's native place are common practices. Paying compensation for disability or death is extremely rare.

Although accidents are common, there are no insurance schemes for workers in the construction sector. The only time that workers get any kind of accident compensation is when there is a union present to pressurize the contractor or principal employer. Unions are rare in this unorganized industry.

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

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

- (a) Failure or collapsing of scaffolding, centering or shuttering
- (b) Improper guards
- (c) Night work without proper lighting

- (d) Inadequate care regarding fire and against electrocution
- (e) Excessive noise
- (f) Handling of heavy finished and semi-finished materials like metals
- (g) Blasting
- (h) Underground work.

Common Health Hazards

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

Cause Effect

Cement dust irritation to lungs, cancer and skin diseases

Plaster irritation to lungs, eyes and skin; lung cancer

Wood burning asthma and nasal cancer

Sand silicosis

Working at heights blood pressure

Sound loss of hearing; stress; blood pressure

Heat, heat cramps and sun burns

Vibration numbness of hands and fingers

Repetitive work sprain, rheumatism

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

and women are in no position to demand these rights.

On the other hand, whenever there is any shrinkage in the workforce, the fall is more drastic in the case of female workers than of the males. It appears that women construction workers form a reserve army coming to the aid of the construction industry and are first to get retrenched when the work slows down.

The Industry's Children

Lakhs of children are growing up on construction sites, playing in dust and rubble. These sites are particularly hazardous for young children who are prone to many ailments and accidents because of the environment they live in. First aid facilities are usually unavailable and access to health care is difficult. Many sites are in new, undeveloped areas on the outskirts of cities where few such facilities exist. It is ironic that while these workers are instrumental in developing new facilities, once a hospital or school is ready, they and their children will have no access to it because it will be time for them to move on to a new site. There are no education facilities on sites either and access to schooling is a problem. Even if a child is admitted to a Government school, retention in school is a problem if the parents are migrant workers. Those workers who have settled in a bustee or jhuggi area in a city and commute to work daily, are more likely to have school-going children. However, settlement does not guarantee an education, as the parents low wages and irregular employment frequently makes schooling unaffordable. Consequently, children start work on the sites as early as age ten, contributing substantially to the country's pool of child labour.

The Child on the Construction Site

The sharpest and most obvious impact of this environment is on the young child.

Not only is he affected physically, but he often has to do without his mother's affection. Burdened with household chores on top of a heavy working day, the mother hastily dumps her infants in the charge of older siblings, who may be no more than 6-7 years themselves. There are no elders, as in an extended family, which can help out. Children who have survived this period are tough.

The conditions which laid the foundations of physical sturdiness for the parents are denied to the children. The migrant way of life is constantly eroding both the physical status and those features which provided the parent group with psychological and emotional stability. These strong cultural entities are part of rural communities that have drawn sustenance and stability from a life close to agricultural rhythms, religion and traditional values. They have a well-defined code of behaviour which gives them their fearlessness, their strength and their pride.

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

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

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

On August 19, 1996, the Indian Parliament enacted *The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996* and *The Building and Other Construction Workers Welfare and Cess Act, 1996*.

Two legislations, construction workers and their representatives saw this as the successful culmination of a long campaign. They

welcomed the enactments, although they have reservations about some of the provisions. They had managed to lobby for certain amendments before the Acts were finally passed, including a provision to ensure that the Cess collected went to the State Governments rather than the Central Government, so that State level Boards could become financially viable. They were also able to ensure that the Acts were extended to include smaller construction projects and worksites that employed fewer workers.

The author submits that despite the legislations for the welfare of the construction labour, the legal force is not really forcing the life of the labour ahead but till today not able to push them to reach heights.

NEED OF PUBLIC OPINION AND PUBLIC SUPPORT FOR THE EFFECTIVE ENFORCEMENT OF SOCIAL ENGINEERING LAWS

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"Law is nothing unless close behind it stands a warm living public opinion"—Wandley Phillips

Discords are bound to arise in society and ingenious human minds have always devised ways and means for resolution of conflicts. Nature has endowed people with rationality and they have constantly attempted to discover methods of establishing a cohesive society. Dispute resolution is one of the major functions of a stable society. Through the medium of the State, norms and institutions are created to secure social order and to attain the ends of justice or the least to establish dispute resolution processes. States function through different organs and the Judiciary is one that is directly responsible for the administration of justice.

It is said that the law without the public opinion is nothing but a bundle of papers.

The gap between the men and women in the society cannot be bridged by just enacting laws without any public support and opinion as social engineering laws are different from penal laws which are just related to injuries and punishment and are deterrent in nature but social engineering laws enacted to uplift the norms of the society and are progressive in nature and therefore it should be backed by the will of the people for whom it is enacted. It is also being clear that centuries old practice cannot be eliminated in one or two days it takes much time. And when laws are enacted to bring radical change in society and are not backed by the will of the people or laws are ahead of public opinion then it has to face great resistance and opposition from