CHAPTER X

LABOUR WELFARE AND SAFETY MEASURES
IN CONSTRUCTION INDUSTRY

1. Introduction:

Before we examine the various facilities provided for the welfare of construction workers in Tripura a few preliminary observations are essential. First, the welfare measures provided in construction sites cannot be compared with those provided in factories or in any permanent establishment. This aspect will be dealt with in detail in the next section. Second, the welfare measures provided in construction sites in a particular country cannot be considered in an isolated manner. The amenities that the construction workers should be provided with have to be considered in relation to the general standard of living of the workers of the construction industry as well as of other industries. A comparison of welfare measures provided in the construction sites of industrially developed economies with those of underdeveloped ones may, therefore, be regarded as a fruitless exercise. Nevertheless, a brief review of welfare facilities provided in the former group of countries as given in Section 3 below will enable one to examine whether the existing provisions in India compare very much unfavourably. Further, this will also provide
us with an idea of what our workers can immediately attain and what they have to wait for a longer period to attain. It is against this background that the welfare provision -- as detailed in Section 4 -- in our country is to be evaluated.

2. Difficulties in Providing Welfare Amenities in Construction Industry:

Because of its unique character the construction industry poses certain problems in the matter of making welfare and safety provisions. For example, difficulties arise because of the temporary nature, mobility and location of sites. Most of the construction sites are of temporary nature where any permanent provision of welfare amenities is beside the question. Where works are likely to be completed within a very short period, say a week or a fortnight, providing amenities may not be economically justifiable. Similarly, where construction sites are constantly changed, viz., in road works, or laying of pipelines, railway lines etc., provision of certain welfare amenities may prove very difficult.

All these problems are real and genuine. But there is another side of the coin. Since the workers are required to put their best effort in the job some essential welfare facilities should be created. The need for such facilities is rather more pressing in construction industry, for, unlike factory workers, construction workers are generally
found to work in sites unprotected from weather, and without canteen and messing facilities, washing and drinking water facilities, lavatory arrangement etc. Whether one views these from efficiency or hygienic or humanitarian point of view, the justifiability of providing these amenities cannot be denied.

At the same time it must be pointed out that welfare measures should be commensurate with the value of the project, the length of the construction period and the number of men engaged, on an average, per day. A detailed guide for welfare arrangements applicable to all construction sites, therefore, cannot be drawn. Each site must be considered on its own merit. Notwithstanding the difficulties and the diverse nature of construction sites, certain basic and minimum amenities should be provided. In fact, the difficulties of providing welfare amenities in certain construction sites because of their temporary character etc. rather emphasise the need for such amenities. The question of providing welfare amenities cannot altogether be ignored, although, as we have already said above, they may differ from country to country.

3. A Brief Review of Welfare Measures in Certain Countries:

a. Transport: If the residences of the workers happen to be situated at a considerable distance from the work site there are provisions -- made either by special or
collective agreement -- for payment of travelling expenses in several countries, viz., Denmark, the Netherlands, Switzerland, Union of South Africa and the U.S.A. In France collective agreements provide for compensatory payment to workers in respect of travelling time. The rationale behind the payment of travelling allowance or providing free transport is that minimum time should be lost in transportation and that unnecessary hardship to the workers is avoided. The obligation of payment towards travelling allowance or making arrangement for free transport by the contractor enables him to "consider the relative advantages of housing all his workers on the site or transporting them over relatively long distances with the resulting extra cost and loss of time." 

b. Shelter: In France, Fed. Republic of Germany, German Democratic Republic, the U.K., the Netherlands, Sweden, Canada and the Union of South Africa, it is obligatory on the part of contractors to provide adequate and suitable shelters to the construction workers. Such shelters must be adequately covered, well lighted, properly ventilated and must have proper sized doors and windows. In some of the above countries there are detailed schemes about the housing accommodation.

c. Protective clothing: Construction workers are usually exposed to severe weather, -- sun, rain or cold, -- or, to a specially difficult condition of work, as in the
case of working in mud or with coal tar. In such cases protective clothing in the form of water-proof, waterproof waders, coats, gloves, goggles etc. are required for adequate protection of the body. In Mexico, "a regulation on preventive measures against work accidents stipulates that protective clothing should be provided by the employer in cases where workers are exposed to risks in their work."\(^7\)

In the United Kingdom the Building (Safety, Health and Welfare) Regulations, 1948, provide that suitable goggles or effective screens must be provided to protect the eyes of persons employed in certain processes of construction. In Sweden by legislation and in Denmark and Switzerland by collective agreements the employers are under obligation to provide necessary equipments to the workers. In the Netherlands workers provide themselves with their own waders and receive compensation at the rate of 0.75 florins per week.\(^9\)

Among other welfare measures prevalent in these countries are provisions of meals and canteens, sleeping accommodation, facilities for drying and storage of clothes, washing and sanitary facilities etc.

In all these countries effective supervision of compliance with safety regulations is ensured either by labour inspectorates or by technical inspection officers from specialised institutions. In Austria the responsibility of enforcing the safety regulations is entrusted to insurance companies while in Canada the promotion of safe working
conditions devolves on the Workers' Compensation Boards. Canada, Fed. Republic of Germany and Israel also have trained building inspectors for the purpose.  

In most of the developed economies, welfare and safety provisions are specifically laid down for construction industry either by legislation or by collective agreement or by suitable administrative regulations. Because of the collective strength of workers the evasion of these rules is rather difficult.

It goes without saying that all these amenities cannot be provided in a country like India; providing even some of them may prove very much burdensome to the employers. But in so far as some of them constitute the minimum requirement of the workers, attempt should be made to select them according to priority. In India, it is not an uncommon sight to find construction workers engaged in tarring the road without adequate protection of their feet. Surely, a pair of waders is not beyond the means of most of the contractors. Likewise, there are other provisions which, if implemented, will go a long way to reduce the hardship of the workers.

Let us, in this context, examine the Regulations made in the CPWD Conditions of Contract concerning the welfare, safety, health and sanitary arrangement of the workers engaged in roads and buildings construction. It should be pointed out here that Tripura, being a Union Territory, comes under these (CPWD) Regulations as there is no separate
PWD Code for the Territory. The PWD Contractors of Tripura are, therefore, subjected to CPWD Regulations.

4. Welfare and Safety Provisions under CPWD Regulations:

The privileges and facilities to which workers are entitled while working under the CPWD contractors are given in the CPWD Contractors' Labour Regulations and Model Rules for the Protection of Health and Sanitary Arrangements. Safety provisions are given under 'Safety Code'. The Conditions of the CPWD Contracts stipulate that for any violation of these Regulations, Rules etc. contractors should be liable to pay a penalty of Rs 50/- for each default. The important provisions under the Conditions of Contract are that:

(i) No female labour shall be employed within the limits of a cantonment (Clause 19).

(ii) No labourer below the age of 14 years shall be employed on the work (Clause 19A).

(iii) The wage of the labourers must not be less than the 'fair wage'. The quantum of fair wage has been subjected to the rate as notified/prescribed by the CPWD in consultation with the local officers of the Industrial Relations Department. It will, of course, not be less than the minimum wage of the area (Clause 19B).

(iv) With respect to quantum and periodicity of wage payment to labourers directly or indirectly engaged by the
contractors, it is essential that they publish the scale of wages and other terms of employment, maintain detailed wage records with regard to any deduction from wages, recovery of wages not paid and deductions unauthorisedly made, and submit periodical returns to higher authority (Clause 19B[c]).

(v) "The Divisional Officer/Sub-Divisional Officer shall have the right to deduct from the moneys due to the contractor any sum required ... for making good the loss suffered by a worker or workers by reason of non-fulfilment of the conditions of the contract for the benefit of the workers, non-payment of wages or of deductions made from his or their wages which are not justified by their terms of the contract or non-observance of the regulations." (Clause 19B[d])

(vi) Under the provisions of Minimum Wages Act, 1948 and the Minimum Wages (Central) Rules, 1950, the contractor must allow one day's rest for six days' continuous work and pay wages at the same rate as for duty. In case of default, the authority shall have the power to deduct such amount from the contractor's bill and pay the same to the worker. (Clause 19B[dd])

(vii) The contractor is also liable to furnish periodical returns showing (a) number of labour engaged by him, (b) their working hours, (c) the wages paid to them, (d) accidents, if occurred, with details of circumstances under which they occurred, and the extent of damage and injury caused by them, (e) number of female workers who have been allowed
maternity leave. (Clause 19 D)

(viii) Maternity leave for a period of 8 weeks (equally distributed between pre- and post-natal stage) and, in case of miscarriage up to 3 weeks from the date of miscarriage, shall be allowed to a female worker engaged by the contractor provided she has been in employment for a total period of not less than 6 months immediately preceding the date for which she proceeds on leave (Clause 19F)

(ix) The contractor shall provide at his expense sufficient number of huts with the following specifications:

a. All huts will have sun-dried or burnt brick walls laid in mud mortar with 'kutcha' floor and thatched roof.

b. The minimum floor area for each member of the worker's family shall be 30 sq. ft. with another minimum area of 30 sq. ft adjacent to the hut for cooking.

c. One unit of bathing and washing places, suitably screened, for every 25 persons residing in the camp shall be provided.

d. All huts shall have suitable door and windows and ventilators.

Besides, there are provisions of adequate water supply, disposal of excreta, drainage, etc. Many of the above provisions also come under the purview of the CPWD Contractors' Labour Regulations and CPWD Model Rules for Protection of Health and Sanitary Arrangements.

Regulations concerning safety include precautions to be taken for scaffolding and other means of access, the
construction, maintenance and inspection of lifting appliances, safety practices regarding such operations as excavating, tunneling and shaft work, protection of machinery etc. Besides, the safety code also enjoins that in certain occupations protective footwear, goggles, face masks and overalls should be provided.

5. An Evaluation:

The provisions enumerated above can be classified into three categories according to the purpose for which they are meant. First, there are regulations (I-V above) meant for reducing, if not eliminating, the exploitation of workers by unscrupulous contractors. Regulations prohibiting the employment of child labour, enunciation of principles regarding the quantum and periodicity of wage payments and enforcement of rules relating to control on deductions and fines recovered from the wages fall under this category. Second, there are regulations meant for promoting the welfare of workers. Provisions of weekly and maternity leave with pay, construction of suitable huts, making arrangement for drinking water, drainage and sanitary facilities etc., building of sheds for taking meals as well as rest, créches etc. (VI, VIII & IX) come under this category. And lastly, there are safety regulations meant for reducing the hazard involved in the job. Considering the unique character of the industry, and the general standard of living of the workers,
these provisions cannot be said to be inadequate when compared with the welfare measures provided in other industries.

But the irony of the situation is that most of the provisions appear more on paper than in practice. During the course of our field investigation we have not found a single woman worker who has been granted maternity leave with pay. Nor has it been reported that any worker employed on casual basis — although working continuously — got the privilege of enjoying a paid holiday once a week. Most of them enjoy a holiday, of course, but without wage! Facilities for bath and shelter hardly exist. It is true that in the projects where workers have been imported from distant places, some sleeping accommodation is provided, but this too has been found far below the standard laid down in the CPWD Regulations.

With regard to safety arrangements no reliable statistics are available obviously because of non-fulfilment of rules laid down in the Regulation. The paucity of data on this account is also admitted by the National Commission on Labour (The Gajendragadkar Commission). In most cases, as our field investigation testifies, accidents go unreported. Contractors are, however, reported to have made suitable arrangement for compensation. In most cases, however, we have found that such arrangement ends up with medical treatment.
On the basis of written communications received by the Chief Medical Officer of the CPWD, New Delhi, during 1950-56, Mr P. S. Mathur informs us that 1/3 of accidents were due to "fall from height", 1/3 due to "injuries from being accidentally struck or crushed" and another 1/10 caused by machinery. The data are presented in Table 10.1. According to another estimate, out of 57,761 reportable accidents of all types in 1952 in the State of Madras 406 were fatal. Compared with the general rate of accidents the fatality rate in building construction is quite high.\textsuperscript{13}

The data on accidents in other countries also indicate that "falling from height" and "struck by" or "striking against" categories are relatively common. For example, in the U.K. during 1952-54 the first category caused 33.7 per cent accidents and in Germany during 1953 this accounted for 82 per cent. Again in California the most common type of accident is "struck by" category while "falling from height" takes the second place.

That the construction workers in India are equally subject to hazards and accidents like their counterparts in factory industries has been admitted even by the Labour Ministry of the Government of India. In 1957 the rate of compensated accidents in building and construction industry was 15.4 for 1000 workers as against 16.84 in factories. The death rate, according to compensation figures for all industries, was the highest in building construction
### Table 10.1
Number of Accidents by Various Causes (1950-56) in Building Construction, Delhi

<table>
<thead>
<tr>
<th>Nature or cause of Accidents</th>
<th>No.</th>
<th>% of total (10⁴)</th>
<th>Fatal accidents</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Falling from a height</td>
<td>37</td>
<td>33.9</td>
<td>4</td>
</tr>
<tr>
<td>2. Injuries from being accidentally struck, or crushed by</td>
<td>37</td>
<td>33.9</td>
<td>11</td>
</tr>
<tr>
<td>3. Machinery</td>
<td>10</td>
<td>9.1</td>
<td>0</td>
</tr>
<tr>
<td>4. Stepping or striking against object etc.</td>
<td>8</td>
<td>7.4</td>
<td>0</td>
</tr>
<tr>
<td>5. Hand Tools</td>
<td>4</td>
<td>3.7</td>
<td>0</td>
</tr>
<tr>
<td>6. Explosives &amp; Fire</td>
<td>3</td>
<td>2.8</td>
<td>0</td>
</tr>
<tr>
<td>7. Electricity</td>
<td>1</td>
<td>0.9</td>
<td>0</td>
</tr>
<tr>
<td>8. Others</td>
<td>9</td>
<td>8.3</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>109</td>
<td><strong>100.0</strong></td>
<td>15</td>
</tr>
</tbody>
</table>


Industry, the rate being 0.80 per 1000 workers compared to 0.75 for mining and only 0.15 for factories. It should be remembered that the percentage (0.080 per cent) represents only those cases which were reported and compensated under the Workmen's Compensation Act of 1923, and do not certainly
present a total picture of the construction industry where the rate of reporting is likely to be lower than that of factories and mining industry because of its casual nature of employment and the consequent unorganised character of its workers.

Thus we find that although the existing provisions are quite adequate, and compare not unfavourably even in the context of a developed economy, the pertinent question, however, is how to translate these measures into actual practice.

6. Conclusions:

Why do most of the provisions remain unimplemented? Is it because the utter poverty of our construction workers lulls them into an ungrudging acceptance of whatever little (by way of amenities) percolates to them through the contractors' benevolence and prevents them from bothering about the welfare provisions? Or is it that the workers are conscious of the absence of the amenities but become helpless, meek and submissive owing to insecurity of employment and lack of any organisation among them? From the experience of our field investigation we find that both these views are to be considered in explaining the state of affairs in the industry. Hardly any worker has been found who is conversant with these rules. Again, because of their very low level of general standard of living and a constant
insecurity of employment it may be difficult for them to take it for granted that, for example, a stone-breaker would be provided with a pair of goggles or a road worker spraying coal tar a pair of gumboots, etc.

Some of the loop-holes in the provisions viewed against the background of the existing set up of the industry may now be pointed out. Granting that workers are organised and are conscious of their rights, contractors would always be able to bypass them by virtue of the nature engagement of workers. For example, a worker is entitled to a day's paid holiday after six days' continuous work. Now, so long as the contractor is at liberty to disengage him any time he likes, this provision will be meaningless, because the worker may be asked not to report for duty on the 6th day (after 5 days continuous work). He may again be engaged on the 8th day. Similarly, the provision of granting maternity leave has become a mockery to the female workers who, like their male members, are continuously taken in through one door and discharged by the other and whose jobs depend on a single word from their employers. It is not contended, however, that a collective organisation among the workers would be of no avail to them; on the contrary, conditions are most likely to improve. But it should also be pointed out that contractors' power to engage and disengage workers according to their sweet will should be curbed.
We have already pointed out the existing provisions by which this (contractors' arbitrary power to engage and disengage according to their convenience) can be checked. But, as we have been frankly told by some of the officials themselves, in the existing set up the Department is primarily interested in getting the required quantity and quality of the work from the contractor according to the terms of the contract, and does not concern itself seriously with the question of providing adequate amenities or fair wage to the workers. It is true that these provisions are not statutory, but that does not excuse the Government's stoic silence upon their non-fulfilment.
NOTES AND REFERENCES


2. Ibid., p. 7.


15. This view is also corroborated by the Study Group for the Construction Industry appointed by the National Commission on Labour, vide p. 19 ibid.