

CONSTRUCTION WORKERS: PROBLEMS AND ISSUES IN AHMEDABAD

Written by *Ratnesh Shah*

5th Year Student, B.Com LLB (Criminal Hons.), Institute of Law, Nirma University

INTRODUCTION

India is considered as a land of various religions where people from various countries came and reside in India. Some are high profile, who came to earn big profits, and others are peoples like Construction workers, who came to build the modern India but they themselves never got the shelter to live and proper amenities to stay and grow their children. 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 diversities¹. Construction workers are the backbone of the economy as they create the infrastructure necessary for industrial growth. In a globalizing economy, it is they who are constructing the new economic zones, the IT cities; call centres and mega malls that are creating new forms of wealth today. It is they who are laying the cables for a rapidly expanding country-wide telecommunications network. Yet these workers, who are creating these historical monuments and founding the base of the economy, they themselves live in a time warp, bonded with contractual relations, low paid, insecure working conditions, bonded labor etc.

Globalization and neo-liberal economic policies have precipitated migration due to increased opportunities for finding work in certain areas and impoverishment and disruption of livelihoods in others. The growth of export oriented industries like garments, electronics and practices such as outsourcing and flexible labor have created a demand for female labor in certain locations. In addition migrant women are in demand in jobs of care, specifically domestic work, child and elder

¹ <http://new.nic.in/pdfreports/women%20workers%20in%20construction%20industry.pdf>

care. Another feature of contemporary migration which has contributed to the demand for female labor has been the growing sex, entertainment and tourism sector.

This study documents the fact that women and men are migrating in search of livelihood, that women are important economic agents in this process, and it is their labor in various segments of the unorganized sector that contributes to the growth of the city and national income, all of which often go unrecognized and unsung².

OBJECTIVE

- The main objective of this research was to find out the problems of construction workers and analyzing the same.
- To also identify the laws, this would be helpful for them.
- Giving recommendations based on such analysis which might help in preventing the existing problems.

RESEARCH METHODOLOGY

Basically we used the Non-doctrinal as well as the doctrinal method to prepare the Research work on the Activities of workers. We also went to the field where these constructions are usually work or reside with their families and analyze their situation more closely. Prepared a questionnaire and went to, Construction site. Also, interacting with workers and getting answers for the queries by analyzing the problems.

HYPOTHESIS

The focus in the study was on the participation in the labor market from worker's perspectives and changes that take place in worker's lives with movement. What are the changes in the way worker look at themselves, their roles and relationships? What are their vulnerabilities in terms of abuse, health, education etc? How are they perceived and treated in their area of destination by communities who are already living and working there? What are their added vulnerabilities as workers in the informal/ unorganized sector?

² <http://www.jagori.org/wp-content/uploads/2007/07/migration-final-report.pdf>

FINDINGS

PROBLEMS WITH WORKERS

1. IDENTITY CARD

We have surveyed few crossroads, communities and construction sites. The most important problem which we came across was that of identity card. Workers living here with their IDs of their native places which do not work in Lucknow. Therefore they face problem in getting SIM cards or opening bank account. For this they use some other person's documents. Most of them have that nowadays it is compulsory for their children to have a mobile. For bank account also they ask for such documents which labors are unable to fulfill.

2. WAGE

Labors working on the daily basis did not face problem in getting the amount as promised by the contractor. But those labors who have a fixed time period (for eg. One month or week) are sometimes fooled and are not paid the actual amount. Here they have to do certain amount of work for a period of time. After that they are paid. So contractors don't pay the promised amount. Labors also don't have any record of the transactions made or to be made and are unable to read the amount mentioned on the paper by the contractors at the time of payment.

3. DOMESTIC VIOLENCE

Yes, we have found cases where husbands commit domestic violence on their wives. There are physical, verbal and economical types of domestic violence. Husbands get drunk and take out their frustration on their wives. The reasons are – not cooking properly, scolding the children, interrupting them, and sitting ideally, denying to do some work, spending to much money, etc. Wife takes this to be their right to be beaten up. They think it to be correct on the part of their husbands to beat them. They also use abusive languages to insult their wives. They also sometimes don't give money to their wives for daily needs. These wives are just not aware of their rights and various provision mentioned in the law regarding domestic violence.

4. SEXUAL HARASSMENT

Yes, women face such situations where they become victims of undignified words and looks. Sometimes shopkeepers treat them badly. The worst treatment they get is the place where they go for sanitation. It is an open place where both men and women go. So here women face lots of problems as there is no privacy. As usual they do nothing. They feel helpless because they are women and that to poor women. They don't belong to this place therefore face such situations. However, they deny such cases at the working sites.

5. DISCRIMINATION IN WAGES

Some of the women complained about the discrimination in wage. Men and women doing the same work are paid differently. Men are paid INR 200 while women are paid only INR 130.

6. BASIC NEEDS

As the source of income is not fixed(permanent) they are unable to fulfill their basic needs of food, water and shelter. When they are unable to get sufficient food, they are forced to sleep without having dinner. They have to fetch water from nearby places. They don't have their private bathrooms. The place where lacks hygiene. This clearly violates their constitutional rights (Article 21).

7. HEALTH ISSUES

Women are physically weak than men. Doing the same work as their male counterparts do they faces more physical problems like nausea, headache, vomiting, weakness ,etc. Living in an unhygienic places give rise to illness like typhoid, malaria, dengue, etc.

8. DIVISION OF WORK

After going through hardships at the construction site these women don't get peace at home. All the household chores have to be done by them. Husbands take rest and not at all cooperate with their wives. They hardly help them because they think that their job is outside the home and not inside. These women have the responsibility of cooking food, fetching water from nearby places which are usually 1-2 kms away, looking after their children, washing clothes, cleaning the utensils, etc. They don't even dare to ask for help from their husband.

9. ILLITERACY AND AWARENESS

Workers are illiterate. Therefore, it is easy for the contractors to make them fool during the payment. They are not at all aware of the various schemes like durgatna sahayata yojna, DV act, etc

LEGAL PROVISIONS FOR THE PROTECTION OF CONSTRUCTION WORKERS

DOMESTIC VIOLENCE ACT (IN CASE OF WOMEN WORKER)

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it -

- (a) Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or
- (d) Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Under this act there are various other provisions which would protect the construction worker from violation of their rights:-

- **Information to Protection Officer and exclusion of liability of informant.-**

- (1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.
- (2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

- **Duties of police officers, service providers and Magistrate.-**

A police officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person-

(a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order

or more than one such order under this Act;

(b) of the availability of services of service providers;

(c) of the availability of services of the Protection Officers;

(d) of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987);

(e) of her right to file a complaint under section 498A of the Indian Penal Code (45 of 1860), wherever relevant: Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

- **Right to reside in a shared household.-**

(1) Notwithstanding anything contained in any other law for the time being in force, every worker shall have the right to reside in the shared household, whether or not they any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

- **Protection orders.-**

The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favor of the aggrieved person and prohibit the respondent from-

(a) committing any act of domestic violence;

(b) aiding or abetting in the commission of acts of domestic violence;

(c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;

(d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;

- (e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;
- (f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence;
- (g) committing any other act as specified in the protection order.

Monetary reliefs.-(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,-

- (a) the loss of earnings;
 - (b) the medical expenses;
 - (c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and
 - (d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.
- (2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.
- (3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.
- (4) The Magistrate shall send a copy of the order for monetary relief made under subsection (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.
- (5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).
- (6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt

due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

Custody orders.-Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent:

Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

Compensation orders.-In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.

Jurisdiction.-(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to

try offences under this Act.

(2) Any order made under this Act shall be enforceable throughout India.

CEDAW ARTICLES (CONVENTIONS ON THE ELIMINATION OF ALL TYPES DISCRIMINATION AGAINST WOMEN)

This convention talked about the discrimination against women and different steps which can be taken by the state to prevent such activities. There were about 18 articles. But for me first two appeared to be more important.

Article I

For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle;
- b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;
- f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- g) To repeal all national penal provisions which constitute discrimination against women.

THE EQUAL REMUNERATION ACT, 1976

An Act- to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination on the ground of Sex against- women in the matter of employment and for matters of employment and for matter connected therewith or incidental thereto.

ARTICLE 21(Protection of life and personal liberty)

No person shall be deprived of his life and personal liberty except according to procedure established by law. It clearly means that this fundamental right is provided against state only.

Right to life means the right to lead meaningful, complete and dignified life. It is more than surviving or animal existence. The meaning of the word life cannot be narrowed down and it will be available to every person living in the country. This has covered a very big dimension from basic needs of food, water, shelter to clean and safe environment. These workers have been deprived of this basic fundamental rights.