

Report of the Sub-Group on Boards
for the Building and Construction Workers.

The Second Meeting of the Tripartite Working Group on Building and Construction Industry was held on 28/8/1985. In this meeting the Working Group had set up three Sub-Groups.

2. The terms of reference of this Sub-Group is as follows:-

"Boards for Building and Construction Workers. What are strong points and weak points; why the Mathadi Labour Act was not extended to the building and construction workers in Maharashtra; what are the reasons for failure of the similar Act in Gujarat?"

3. Shri Shambhu Dayal, Labour Secretary, Gujarat, is the convenor of the Sub-Group. But, since he is on long leave, Shri A.K.Srivastava, Director General (Labour Welfare), Ministry of Labour, has taken over the duties of the convenor. The composition of the Sub-Group is mentioned in Annexure-I.

4. Shri Shambhu Dayal had prepared a draft report of the Sub-Group, a copy of which is at Annexure-II. Appendices III, IV, V and VIII referred to in Shri Shambhu Dayal's report are also appended.

5. The draft report of the Sub-Group was discussed in the meeting of the Sub-Group held in Delhi on 16/4/1986. The minutes of this meeting are at Annexure-III. As a result of the discussion held on 16/4/1986, Shri Shambhu Dayal had prepared a supplementary note on the Dock Labour Board system which is at Annexure-IV. In this note he has also indicated reasons for failure of the Mathadi Labour System in Gujarat.

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6. A meeting of the Sub-Group was held in Bombay on the 15th May 1986 with the Labour Secretary, Maharashtra, and the office bearers of some of the Mathadi Labour Boards in Maharashtra. The minutes of this meeting are at Annexure-V. In this meeting the Builders Association of India had presented a Memorandum which is at Annexure-VI.

7. The arguments in favour of Construction Labour Boards have been set out at great length in Appendix-V and it is not necessary to repeat them. In short, the idea is that the building and construction workers are susceptible to exploitation and are not able to avail of the social security schemes because their employment keeps on shifting and they are unorganised. It is argued that the Construction Labour Boards will lead to stability of employment; workers will get organised; they will be assured of work on a regular basis and it will be easier to devise suitable social security schemes for them.

8. Appendix IV gives the draft outline of the scheme of legislation for construction workers. The scheme envisages registration of the workers as well as the employers and also seeks to regulate recruitment into and removal from service. The scheme also seeks to confer a large number of benefits on the workers. It is proposed under this scheme that the Labour Boards shall maintain a Fund to which every registered employer shall make contribution at a rate to be worked out taking into account the obligations cast on the Board under the scheme. It is noteworthy that payment of wages to the workers is the responsibility of the Board. Although it is not specifically mentioned, from the fact that even the payment of wages is proposed to be the responsibility of the Board, the idea seems to be that employers can engage only those workers who are sponsored by the Board.

9. In the course of the discussion it was clarified by the members who support the idea of a Construction Labour Board that they would like the experiment of Construction Labour Board to be tried on a pilot basis in some selected areas. They were fully conscious of the fact that in view of the large area of our country and the special peculiarities of the construction industry it will not be feasible to have Construction Labour Boards throughout the country.

10. The Builders Association of India have also prepared a scheme of a law (Appendix VIII) for construction workers although they have refrained from using the word 'Construction Labour Board'. The salient features of their scheme is that it provides for registration of principal employers, contractors and sub-contractors, but does not envisage registration of the workers. The scheme does provide for a large number of facilities to be given to workers and also envisage that a special machinery will be set up which shall maintain a fund to which every registered employer shall make contribution at a rate to be specified from time to time. Although the scheme of the Builders Association of India does envisage regulation of the terms and conditions of employment etc., it does not contemplate that the principal employer shall engage workers only after they are sponsored by the special machinery to be set up under the proposed law. This seems to be borne out by the view expressed by Shri Amarjit Singh Chaudhury in the meeting held on 16/4/1986 in which he categorically stated that the Builders Association of India does not accept the idea of minimum guarantee of work and engagement of labour through the Board.

11. The first experiment in the decasualisation of workers was tried in the country in some ports. Although the situation in ports is very different from the conditions of the building and construction industry, it may be worthwhile to have some idea about the Dock Labour Board system. Some details about the Dock Labour Board system are mentioned in the paper at Annexure-IV referred to earlier. The Government of India had set up a Committee

to review decasualisation scheme and allied matters in the major ports. This Committee gave its report in February 1976. Extracts of paragraphs 2.7 to 2.17 of the report are at Annexure-VII. Paragraphs 1 to 9 of Chapter XIX which contain a summary of the recommendations of the Committee are at Annexure-VIII.

12. The Government of India had again set up a Committee in 1984 to consider the demand for institutionalisation/ decasualisation of cargo handling workers in Paradip, New Mangalore, Haldia and Tuticorin Ports and also a demand for decasualisation of additional categories of dock workers in other ports. The report of the Committee was submitted in 1984 itself but no decision has yet been taken about the setting up of Dock Labour Boards in the above mentioned four ports. Extracts of the recommendations of the Committee about the Paradip Port are at Annexure IX. It will be clear from the reports of the both the Committees that excess registration of workers is a serious problem in the Dock Labour Boards. The schemes framed under the Dock Workers (Regulation of Employment) Act 1948 envisage that the Dock Labour Boards will fix the number of workers to be registered keeping in view the workload, it seems that this work is not being effectively discharged. There also seems to be no clear cut guidelines about the qualifications etc. of the new workers to be registered by the Boards. For instance, sub-rule (3) of rule 20 of the Calcutta Dock Workers (Regulation of Employment) Scheme 1970 prescribes as follows:-

"Any fresh registration, provisional or otherwise, in any category in which dock workers have already been registered under the Scheme shall be done -

- (i) serially from workers available from the list of eligible candidates as prepared by the Registration Officer of the Board and left over at the time of initial registration, and
- (ii) from workers registered with the local Employment Exchange.

For workers under item (i) above, the age of entry shall be below 58 years and for workers under item (ii) above, the age of entry shall be 25 years or below."

The fact that no clear cut guidelines have been laid down is understandable in the case of the dock labour because the nature of the job is loading and unloading.

13. Annexure-II which is a report prepared by Shri Shambhu Dayal and which has been referred to earlier also,

gives some information about the Mathadi Labour system in Maharashtra. Additionally it may be stated that the Government of Maharashtra has allotted certain pieces of lands as per the minimum requirements of the Mathadi Boards in the suburbs of Bombay City for having their Housing projects, in order to provide permanent shelter to the Mathadi workers registered in the Board who were so far living in the Godowns. These Housing Colonies have come up in Mulund, Trombay, Kurla (East), Chambur, Kandivali (Charkop) and Panvel (Kalamboli).

14. In order to facilitate the Mathadi workers to raise funds for their housing accommodation, the Boards have decided to give them loan from their Provident Fund Accounts. These Housing projects will be subsequently run by these Mathadi workers on cooperative basis. Similar type of projects are being undertaken at Nagpur, Pune and Kolhapur for these Mathadi workers.

15. These Mathadi Boards have started their own Dispensaries in the Greater Bombay and New Bombay area for the medical treatment for the registered Mathadi workers. Experts in Medical line from renowned Hospital in Gr. Bombay are rendering their services on honorary basis to these dispensaries run by these Mathadi Boards, after constituting a Trust for this purpose.

16. The following Boards are in operation at present in Maharashtra:-

- i) The Cotton Markets Labour Board for Greater Bombay.
- ii) Grocery Markets & Shops Board for Greater Bombay.
- iii) Goods Transport Labour Board for Greater Bombay.
- iv) Khoka Making Establishments & Timber Markets Labour Board for Greater Bombay.
- v) Cloth Markets & Shops Board for Greater Bombay.
- vi) Railway Goods Clearing & Forwarding Establishments Labour Board for Greater Bombay.
- vii) Metal (excluding Iron & Steel) & Paper Markets & Shops Labour Board for Greater Bombay.
- viii) Bombay Iron & Steel Labour Board for Greater Bombay.
- ix) Bombay Vegetable Markets Unprotected Labour Board for Greater Bombay.
- x) Pune Grocery Markets or Shops & Agricultural Produce Markets Labour Board, Pune.

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- xi) Nagpur Grocery Markets or Shop Railway Yards & Goods Shed & Khoka Making Establishments & Timber Markets & Shops Unprotected Workers Board.
- xii) Kolhapur Mathadi & Unprotected Labour Board.
- xiii) Unprotected Labour Board Sangli-Miraj.
- xiv) Nashik Mathadi Unprotected Labour Board (One Man Board at present).

17. The Board mentioned at Serial No.(ix) above i.e. Bombay Vegetable Markets Unprotected Labour Board for Greater Bombay has not yet started functioning as it has been set up only in 1985.

18. It is noteworthy that although the law envisages Mathadi system in the fishing industry, but it has not been possible to introduce the Mathadi system in the fishing industry. It is also worth noting that Maharashtra Government had considered introduction of the Mathadi system in the building and construction industry, but the idea was not pursued in view of the special nature of the problems in that industry.

19. From the information gathered in Bombay about the working of the Mathadi system in Bombay, it transpires that there is no system of minimum guaranteed wages for daily-rated or piece-rated workers in the Mathadi system. Although some of the schemes do provide for disappointment wages, but dis-appointment wages are hardly ever paid. We were told that this was so because there was no surplus labour in Mathadi system.

20. There is no doubt that the Mathadi system has conferred a host of benefits on the workers who are registered under the various Mathadi Boards. Under this system, employment is assured; workers have group insurance scheme; they get bonus; they are assured of proper wages and are also able to get housing loans etc. The average monthly earnings per month of the labour under various Boards is as follows:-

(a) Cotton markets	Rs. 1,200/- p.m.
(b) Goods Transport Labour Board.	Rs. 1,100/- p.m.
(c) Khokha making and timber-market.	Rs. 752/- p.m.
(d) Cloth market and Shops Board.	Rs. 700/- p.m.
(e) The Railway Goods clearing and forwarding Establishments for Greater Bombay.	Rs. 800/- p.m.

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| (f) | The Bombay Iron & Steel Labour Board. | Rs. 1,350/-p.m. |
| (g) | Grocery Markets and Shops Board for Greater Bombay. | Rs. 1,081/-p.m. |
| (h) | The metal (excluding Iron & Steel) and Paper Markets and Shops Mathadi Labour Board. | Rs. 277.04 p.m. |

[The wages for The Metal (excluding Iron and Steel) and Paper Market and Shops Mathadi Labour Board seem to be unduly low. The reasons for this are not quite clear].

Although these wages are not unduly high, when we see the wages alongwith the other benefits which are available to the Mathadi workers and compare the Mathadi workers with the other workers in the unorganised sector, it will be clear that the Mathadi workers have indeed benefitted a great deal from the Mathadi system.

21. One important feature of the Mathadi system and also the Dock Labour Board system is that no employer can engage workers unless he is sponsored by the Board. With only a few exceptions, payment of wages is also made through the Mathadi Board. It is, therefore, obvious that the Mathadi labour system is a closed system entry to which would be very coveted to a large number of unemployed people in and around the relevant area. Therefore, the question arises as to how registration as a worker is done. The schemes framed under the Act do not contain guidelines in this regard. For instance, clause 15 of the scheme for the Sangli Municipal Council and the Mirage Municipal Council lays down as follows:-

"15. Registration of existing and new workers-
(1) (a) Any worker who on the date of enforcement of this Scheme is already working in the employment in the area to which the Scheme applies shall be registered under this Scheme;

(b) The qualification for new registration shall be such as may be specified by the board having regard to local conditions, physical fitness, capacity and/or experience. Citizen of India only shall be eligible for registration.

(c) Registration of workers in any new category shall be from among workers who have been or were working in the said employment on any such date as the Board may specify in this behalf provided that, the worker is medically fit and is not more than 60 years of age".

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However, we were told by the office bearers of the Mathadi Labour Boards in the meeting held in Bombay on 15/5/1986 that in case a worker dies, his dependant or near relative is registered and even in the case of retiring workers or those who otherwise leave the Board, they have an informal right to nominate their successors. Even with regard to vacancies which occur due to an increase in the workload, the existing registered workers have an informal right to nominate their relatives for registration with the Board. The question therefore arises whether it is proper that some people have a monopoly of employment. We also have to consider whether such a system would not be violative of Article 14 of the Constitution which guarantees equal opportunities to all citizens of the country. Should there not be a system of recruitment where every body has an equal opportunity to compete for registration under the Mathadi system. This legal point has not yet been tested in any court in the case of the Mathadi labour system.

22. However, if we have to consider a Board for the building and construction industry, this is a problem which will have to be faced otherwise any system which creates a monopoly of employment without working out a fair and equitable system of recruitment is in great danger of being struck down as an unconstitutional. It is well known that the building and construction industry has a large number of categories of workers ranging from skilled to semi-skilled to unskilled. To lay down objective criteria with regard to all the categories of work so that the Boards can register workers on that basis seems to be an almost impossible task. As mentioned earlier, the Builders Association of India is not averse to the idea of a separate machinery to look after the building and construction workers, but it is opposed to engagement of workers through such a machinery. The secret why the Dock Labour Boards and the Mathadi Boards have existed for so long is that employment on the basis of sponsorship of the Board is compulsory. Without such a compulsion, the machinery proposed by the Builders Association of India will be doomed to failure from the very beginning.

23. The Builders Association of India have laid a great deal of stress on the point that the work of the Mathadi labour is largely of loading and unloading and the same is even more true of the dock labour. The Builders Association of India have argued that this system cannot succeed in the case of construction industry where there are 40 categories of work which have to be interlinked and coordinated.

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24. The idea of a Board for the building and construction industry bristles with a large number of administrative problems which may be too difficult to overcome.. Even if some small employers are left out of the system, the employers covered under the scheme will have to approach the Board for workers in case he wants to undertake any building and construction activity. There will always be disputes about the quality and the quantity of the work done. There may even be delay in securing the services of workers. The workers of the required skill may not be available. From the workers point of view also, the system may create difficulties. If a worker wants a job, he will first have to approach the Labour Board and only then he can hope to get a job. Even if the system is started in some selected cities, the building and construction activity would be spread over a large area and it will be difficult to efficiently implement the system. Here it may be worthwhile to remark that the Dock Labour and the Mathadi labour have their focus of work in clearly specified areas.

25. Keeping the above things in view, the Sub-Group finds itself unable to come to any unanimous opinion about the setting up of Labour Boards for the Building and Construction Industry.
