

A National Tripartite Consultation on Promoting Registration of construction workers under the Building and Other Construction Workers Cess Act (BOTWCA) was held at New Delhi on 23-24 March 2011. Marked by enthusiastic participation and lively discussions, the Consultation saw presentations on some of initiatives such as Rashtriya Swasthya Bima Yojana, National Pension scheme and Janashree Bima Yojana besides highlighting the need for skill enhancement of construction workers, the need for decent housing and shelter for workers and better utilization of the cess collected. The following is the executive summary of the proceedings.

Although the BOTWCA provided an excellent opportunity to extend social protection to about 40 million construction workers, majority of which were in the informal economy, a large proportion of the workforce lacked the knowledge and information of many path breaking initiatives of the government in this regard. Underlining this in his welcome address at the National Tripartite Consultation on promoting registration of construction workers, Mr. Markus Ruck, Senior Specialist on Social Security, ILO said that the consultation involving all stakeholders was an effort to share experience and knowledge in reaching out to the workers and implementing the various welfare schemes.

It was recognized that registration was the necessary first step that would enable the government machinery to reach out to the construction worker. Mr. Ruck hoped that the deliberations in the two day consultation would come up with a clear roadmap to promote the registration of workers under the welfare boards and enable them to access the welfare schemes.

Mr. Ruck's address was followed by a presentation by Mr Mukesh Gupta, a senior specialist at ILO on Employment Intensive Investments, on the ILO findings on service delivery of welfare schemes under the Construction Workers Acts. This diagnostic analysis of the challenges in the service delivery of the Workers' Welfare Cess Act, 1996 was undertaken in the light of the deficits in Decent Work elements for the Construction Workers earlier revealed in a rapid assessment study made by the ILO in 2009 to understand the impact of global recession.

Mr. Mukesh Gupta highlighted some of key features of the two laws relating to construction workers and their various provisions for ensuring decent work. The major challenges identified in the diagnostic analysis, he said were with regard to registration of establishments; registration of workers; collection of cess and; utilization of funds for welfare schemes. The other key findings were: low level of registration of establishments; lack of emphasis on appropriate dwellings for workers lack of emphasis on skill development and training; lack of awareness among workers about the benefits and entitlements; lack of safety measures at work sites; retirement benefit only after the age of 60 whereas the work was such that the worker retired by age of 50-55 years; maternity benefits to women workers and not to the wife of the worker; issues relating

to health insurance etc as well as the fact many States had yet to set up State Welfare Boards.

Pointing to the serious issue of low level of skills amongst workers, Mr. Gupta said that although Government's investment in infrastructure had increased manifold over the last two five year Plans, the decrease in skills was an alarming trend. The number of unskilled workers had grown considerably from 1995 to 2005, while the share of skilled workers had steadily decreased. This trend will not only lead to exploitation of workers but would reflect on the quality of work and durability of the assets, he said.

Mr. Gupta called attention to the urgent need for hygienic conditions of living for construction workers and advocated using PPP models to achieve this. (???) He said private sector had shown considerable interest in such schemes. He said the ILO had assisted the government of Haryana in a PPP model for construction of shelters for workers. It was proposed that funds from the Cess act be given to the developer who found his own land and developed this housing complex (more like a motel) where bed could be had for hire; there would be proper sanitation, crèche, and PDS and community hall. As such housing complexes cannot be built inside the city the contractor could provide transport to the worksites for the workers living in these complexes. The proposal, Mr. Gupta said, had generated a lot of interest amongst the private sector.

In his inaugural address, Mr. Anil Swarup called for a greater "commitment" towards service delivery emphasizing the need for the tripartite consultation to be able to come up with a module for way forward. He said the need was to highlight not only what was required to be done, but how and within what time frame it could be achieved. He said that although the BOTWCA was in the process of amendment, it was important to know that a lot could still be done within the framework of the existing legislation. The implementation of Rashtriya Swasthya Bima Yojana (RSBY) had amply demonstrated that a lot could be done even without the need for legislation, Mr Swarup said.

Mr. Swarup said that some of the States had showed that there was no need to wait for the Act to be amended to be able to implement welfare schemes on ground. He said there was a need to interpret the law in a manner that benefits the worker adding that some states ingeniously done so. Madhya Pradesh, Kerala, Tamil Nadu, Haryana and Andhra Pradesh were some of the examples the other states could emulate with regard to implementing welfare schemes through the Board, he said. Responding to a query earlier posed by Mr. Mukesh Gupta regarding collection and utilization of cess from works under NREGA, Mr. Swarup said cess may be collected from building 'x' and do welfare for workers in location 'y'. The building and construction worker is a worker and they should be benefitted regardless from where the cess was coming.

Mr Swarup said that a pilot project run in Tamil Nadu by the Ministry of Labour and Employment along with ILO had proved that if implemented in a project mode, the

scheme could empower the worker by approaching and addressing issues of vulnerability, bondage and the problem of lack of social security. In a project mode it is clearly defined how, where and by when a scheme would be implemented. Time lines are worked out and there is good monitoring.

Coming back to the example of RSBY, Mr. Swarup strongly recommended that the scheme be extended to the construction worker. Its portability and that the smart card acted as an ID card country wide were two of its greatest advantage for workers, especially the migrant workers.

The inaugural session concluded with a vote of thanks by Mr. S. R. Joshi, Deputy Director-General (Labour Welfare), MoLE.

The **first session** began with a short film followed by a power point presentation by Mr. Nishant Jain on the Rashtriya Swasthya Bima Yojana. Mr. Jain listed out the benefits of the scheme, the source of funding and how both private and public hospitals are empanelled to provide cashless treatment to the beneficiary. More importantly, Mr. Jain explained the processes involved in the scheme. These were:

- State Government sets up an independent nodal agency which prepares the BPL data in the specified format
- Insurance Company is selected through an open tendering process
- Insurance Company sets up camp to enroll beneficiaries in the villages. Fingerprints and photos are taken for the purpose. A smart card is then printed and given on the spot. The Government representative accompanying the camp authenticates it by his/ her smart card and fingerprint
- As the beneficiary avails treatment facilities at the empanelled hospitals, data flows from each hospital to the insurer. This happens on a daily basis.
- Paperless claim settlement process for the hospitals
- Close watch is kept by State Nodal Agency and Central Government to eliminate fraud.

Mr. Jain said so far approximately 23 million RSBY smart cards had been issued and 1.5 million people benefitted under the scheme. Approximately 8000 hospitals were empanelled and service delivery had started in 25 states. Eleven insurance companies were involved in the scheme so far. The success of RSBY could be measured by increase in ratio of hospitalization in the case of poorest of poor who were really burdened with out-of-pocket expenses for healthcare. Also, there was been a marked improvement in utilization by women, especially in the northern states. Healthcare was usually among the last of priorities amongst these women but because of the card, even if they did not have money, they could avail of healthcare facilities.

There were several other positive fallouts of the scheme. For instance, new private hospitals were now coming up in remote rural areas. Besides, at several places there

was interesting competition seen between private and government hospitals. That up to 25 per cent of the money received by the government hospitals could be utilized as cash incentive to the staff was an added attraction. On the other hand, challenges still remained in the form of lack of awareness, lack of capacity of government and private players, availability of quality healthcare providers as well as provider induced demand and frauds.

Several queries were made and opinions expressed as the floor was given to the participants. It was pointed out that RSBY may not be a substitute for better investment by the government in the healthcare system. Many said that the ESI Act should be extended to construction workers as well which could take care of the out-patient care of the worker. The construction workers could be brought under ESI as “other beneficiaries”. Participants from Tamil Nadu pointed out that as there were 20 lakh construction workers registered with the board, the RSBY premium costs each year would be more than the board could afford. It was suggested that while the central government could pay the premium, the state government’s contribution could be paid by the Board.

The discussion was followed by a power point presentation on the National Pension System (NPS) and the Swavalamban scheme by Mr. Puskal Upadhyay.

From being a provider concept to a rights-based one, the pension system in India had seen a massive reform. From being looked upon as a dole, the country had now moved towards a defined contribution pension regime where each individual had an equal right to get a pension by contributing as per his capacity supported by the government in a matching/ or to some extent so that a reasonable corpus is built up by the time of his retirement. Mr. Upadhyay said the National Pension System was known such as it had the capacity to take everybody aboard.

In this regard, NPS Lite was aimed at the economically disadvantaged groups who had a very low capacity to pay. NPS Lite extended the same infrastructural capability of NPS for the unorganised sector workers, construction workers in particular. Swavalamban was an initiative of department of financial services to popularise NPS Lite and make people understand this priority and contribute towards. The speaker assured that NPS Lite had optimised features with individual accounts and did not compromise on any of the features of the National Pension System. If there was any difference, it was the internet access to the subscriber. Otherwise it had the same security, benefits and the same investment patterns.

Besides, NPS Lite’s ultra low cost structure had made micro investments economically viable. The target population were the working poor in remote locations with low banking penetration, those with low incomes and modest saving capabilities, those with low literacy and lower financial literacy and short term consumption and income levels.

Also, under Swavalamban, the retirement age had been brought down from 60 to 50 years, Mr. Upadhyay informed.

He said the state government machinery could act as an effective aggregator for the identified occupational group. Already, out of the 8 lakh workers registered with the Andhra Pradesh Building and other Construction Workers Welfare Board, 1 lakh had been enrolled in the Swavalamban scheme. Similarly, the Karnataka Unorganised Sector Workers welfare Board had started a massive campaign. Co-contribution from state government was necessary to ensure adequacy of pension, Mr Upadhyay said. Karnataka, AP and Haryana, were already contributing an amount. Anyone who contributed Rs. 1000 a year got another 1000 rupees from the central government and an amount of 1200 rupees from state government. With this contribution, the pension would increase to 2000 rupees per month.

Mr. Upadhyay sought to allay fears expressed by many participants over security of the money that was invested in the market by the fund managers. He said it was a valid concern but assured that very credible agencies had been appointed and the money was invested under strict guidelines. There was an option too of the entire money being invested only in government securities. With regard to another query, Mr. Upadhyay said that in case of death of the subscriber the corpus was transferred to the nominee who could make it is his/her own pension account.

Speaking on Janshree Bima Yojana, Mr L. S. Rawat said the scheme had been running successfully for 11 years, and with the concept of group insurance, it was able to take the concept of insurance to the masses. There were 45 occupations eligible for insurance and construction workers including brick kiln workers were among them. The scheme also came with an add-on benefit of educational assistance for two children of the parents covered under it.

Experiences of the state building and other construction workers welfare boards in Andhra Pradesh, Karnataka, Madhya Pradesh, Delhi and Haryana were shared by speakers from the respective state in the Second session of the consultation.

Andhra Pradesh had registered 10.04 lakh construction workers and had collected a cess of Rs 526 cr. The steps taken for registration of workers, included appointment of district collectors as nodal officers in 23 districts of the state, fixing daily targets for assistant labour officers, assistant commissioners, deputy commissioners and joint commissioners at the zonal level. The state identified clusters and 'addas' at all major construction sites/ district head quarters/ urban areas. A daily monitoring cell was also constituted. Karnataka too had registered over 1.25 lakh workers and had disbursed Rs 13,653,950 as benefits under various schemes.

The state representatives also listed out the benefits extended to the registered worker. The range of benefits in Karnataka, for instance Included a substantial educational

assistance, marriage assistance, housing loan and loan for purchase of tools, financial assistance up to Rs. 50,000 for treatment of major ailments, pension and disability pension etc. In Karnataka pension age for female and male workers had been reduced to 50 and 55 respectively. Benefits in Haryana included free travel facility to religious places, availability of crèches and mobile toilets and construction sites and mobile dispensary van. Delhi too had about 18 schemes that benefitted the registered worker. However, it was seen that although states had many benefits that were similar, there was no uniformity in the amount of financial assistance given under various schemes by the different states.

The representatives of Andhra Pradesh and Karnataka, Delhi and Haryana also spoke of some of the bottlenecks faced by the state in the registration process. The common grievance was the apathy of employers – the builders and contractors. Builders and contractors were unwilling to give any sort of employment certificate to the worker. Also, it was difficult to convince the migrant worker of the benefits of registration as there was no portability. Age certification too was cited as a problem area. Haryana had resolved it by authorizing all government officers to certify while Delhi had opted for self certification by the worker. There was also an unwillingness to pay the registration fee.'

Lack of awareness amongst workers on the benefits of registration was countered by special drives and campaigns in Andhra Pradesh. In Delhi and Haryana too, publicity campaigns through leaflets, radio jingles and street plays were being carried out.

As for delivery of schemes, in Karnataka, problems arose from incomplete applications, non-payment of subscription and non-submission of relevant documents. The AP representative said when in one instance, on the death of workers in an accident, the families were paid relief from the cess fund, objections were raised by the office of the Comptroller and Auditor General on the ground that the workers were not registered. The issue of shifting employment was also raised.

Madhya Pradesh which has been hailed as one of the exemplary states with regard to functioning of the construction worker welfare board has registered over 14 lakh workers and has a corpus (through cess) of Rs 444 crores. The board had so far spent around 74 crores on eight different schemes and benefitted over 3 lakh people. Referring to the achievements, Mr Prabhat Dubey said the key to these had been the convincing of beneficiaries. Once the benefits started reaching the people, it did not take long for the workers to be convinced. Ultimately the state also had the support of the building associations, contractors and the government and non governmental bodies. Now, hundreds of registrations were being issued every day. It also helped that the Chief Minister took interest and kept track of all developments through regular video conferencing with all relevant authorities. Chaired by the state Labour Minister, the MP Board consists of four members of builders and contractors association, five members of central trade unions and some NGOs. Recently, the Board had introduced

an ID card for each worker to carry and a small handbook for all the departments on registering, cess collection and benefit extension authorities.

During discussions that followed the presentation by the state representatives many pointed out that members of national trade unions were rarely taken as board members as workers representatives. Instead it was the municipal civil engineer or some such officer. Similarly, rather than members of builders or contractor associations, it was a common practice to appoint government officials themselves as members representing employers. It was strongly felt that the presence of government officials as employers and workers' representatives on the board did not lead to any fruitful or meaningful discussion at the meetings.

Clarification was sought on income tax levied in some states on the cess fund collected by the Board and suggestions were made for directions on this by the central government. Tamil Nadu representative however pointed out that the Board was registered as charitable trust and hence no income tax was levied on the fund collected. Many felt that the ceiling of 5 per cent (of the cess fund) for meeting administrative expenses should be raised.

The importance of skill development to meet the future demands in construction and ways to link skill development as part of welfare measure was underlined by many participants. Example of Tamil Nadu and Andhra Pradesh were held up. The first batch of construction workers was already trained in Tamil Nadu and over a lakh workers were expected to be trained by the year-end. It was felt that the training academy could be made by the government through the Human Resource Development Ministry or the Labour Ministry whereas the board could give stipends to trainees for registered worker.

There were concerns expressed on housing and shelter needs of the construction worker. Many felt that it was the duty of the contractor to look after the safety and decent living conditions for workers and these very often did find mention in the contract. There was however no monitoring. There were suggestions that all contractors should be registered and they and the employers should be responsible for registration of all workers before any work commenced. Along with skill enhancement, housing and shelter came up for detailed discussion on Day 2 of the Consultation.

The participants were divided into four groups on the second day of the consultations to come up with concrete suggestions as a way forward on some of the critical issues that were discussed the previous day, namely, Portability of the board membership; Inclusion of Skill Development as part of welfare measures of the board; PPP models for temporary housing for construction workers and requirement of certification of 90 days of employment as construction worker and age certification.

Portability of Board Membership: There was a unanimous opinion that there should be portability of registration and membership and that smart card was the best vehicle to ensure portability. The easiest way to implement would be to adopt the RSBY as a common card. It was suggested that the contribution to RSBY be paid by the Centre manner as in the case of BPL card holders. For portability, it was necessary that there was a uniform application form, uniform ID card, uniform fees, renewal charges that is prescribed by the central and state government. These could be announced on a website. Also, the card could have a unique number. It was suggested that instead of annual, there is renewal of card after every three years.

Skill Development: Participants felt that skill development was part of welfare of workers and hence should be part of the welfare board. It was suggested that the state government could give the land for the establishment of the skill development academy and the building and capital expenditure is borne by the centre. However, to avoid delays, construction could be started by the Board and the costs be reimbursed by the Centre later on. Salary to the staff should be borne by the central or the state government but the payment made to the workers (at least minimum wages or daily wages) in the form of stipend should be given by the Board from the Cess. In the case of smaller states such as those in the north-east, the entire funding could come from the central government. There was a view that four to five trades should be specifically identified for the purpose of skills enhancement. This should be done on DGET model and existing utilities like the ITIs should be utilized and syllabus must be framed. There was an opinion that finance should come from the Skill Development Corporation while training expenditure & scholarship from Board. It was important that female workers are given equal opportunity and taken on the skill enhancement programmes.

PPP models for Housing and Temporary Shelters: It was felt that for practicality, a uniform method could not be applied for all contractors, small and large. Contractors could be categorised as micro, medium and large enterprises. All contractors should also be registered with the Board. For those contracted for large works (say 500-1000cr) that will go on for two years or more, temporary housing should be provided by the contractor and should be part of the tender itself. There was a suggestion for portable/mobile cabins and caravans. Separate cabins should be there for women and families; crèches should be provided. Participants pointed out that since there was already a DLF model in existence, it should be examined and emulated. In any case, there should be standardization of models. The particular habitat should have all the basic amenities. Creches too should form important part of such habitats and shelters. Those who stayed for longer periods in the city, worker hutment should be included in the plan to be approved by local authority. There should be proper monitoring of these hutments. For those workers who were engaged in low-cost and very small construction activities, there was a suggestion that the board should provide the facilities of 'rain basera' for which land should be provided by the local bodies.

Employment and Age Certification: There was a unanimous opinion that self certification in declaration of age should be enough. Nearly all participants felt that there was need to reduce the requirement of 90 days employment to 30-45 days. Block level and district level committees could be constituted with employers and trade unions for speedy registration and implementation of welfare schemes. Also, certification by trade unions or employers association should be accepted.

Commenting on the suggestions put forward by the participants, Mr. Anil Swarup said that every suggestion should be measured against its practicability. He reiterated his views on RSBY which he agreed was the right vehicle for portability of registration of worker. The card, he said, would revolutionise delivery by ensuring a seamless, transparent mechanism. He also suggested that the Janshree Bima Yojana could be extended to all those beneficiaries who were getting the RSBY card. Rather, an LIC representative could go along when the camps for RSBY were set up. This platform could also be used in the Public Distribution System for the worker and the portability of RSBY could be extended to it. He urged that trade unions and workers get familiar with the processes of the implementation of schemes.

Mr Swarup said suggested that two small groups under the aegis of ILO be set up with four persons each to look into the idea of standardization of document. And, a person is nominated in ILO who acts as a pivot for receiving and disseminating information. He also recommended that ILO should organise another meeting in six months as a review of what has been done.

Concluding the session, Mr. Marcus Ruck said the lessons derived from the consultation pointed to the benefit of regular exchange of information among the states. He said in the policy debate that typically precedes the launch of particular social security measures, officials in the state which have taken this measure can speak with a high level of authority and those successful are proof to what could be done. Administrators from states that have successfully improved service delivery in welfare board could be motivators to officials struggling to accomplish the same in their own state. He said dialogue was essential to shape common objectives and strategies.