

**A Decade of Denial,
10th Anniversary of Kader Fire
And
Proceedings of the 2003 ANROAV Annual
Meeting.**



Bangkok. 25th-27th July 2003

**Asia Monitor Resource Centre
444, Nathan Road, 8-B
Yaumatei, Kowloon, Hong Kong**

www.amrc.org.hk

Contents

Background	4
Key Issues/Problems in the region.....	4
The Conference.....	5
Proceedings	7
Session 1: Remembering Kader	7
Apo Leong, executive director of the Asia Monitor Resource.....	7
Professor Voravidh.....	7
Ms. Somboon is the Chairperson of the victim’s group called WEPT.....	7
Session 2: Workshop on Social Security focussing on Occupational Accident and Disease Compensation Systems in Different Asian Countries	11
Presentation from Abul Hossain from Bangladesh, President of United Labour Forum and Bangladesh Garment Workers ad Employees Federation.....	11
Workers' Compensation in JapanCase Study - Asbestos-Related Diseases.....	25
Presentation by FURUYA Sugio, Secretary General JOSHR: Japan Occupational Safety and Health Resource Center.....	25
Presentation by Dr. Voravith Charoenlert,Thailand.....	42
Presentation by Ms. Choi Eun Hee from Korea from Solidarity for Workers Health.....	42
Presentation by Jeremy Lei Manchao from Macau Federation of Trade Union.....	43
Brief Introduction of the Law of Work Accidents and Professional Diseases of SAR, Macao.....	43
SOCIAL SECURITY FOR WORKERS IN INDIA:SOME GROUND REALITIES PERTAINING OHS.....	49
Presentation by Mr. Jagdish Patel, People’s Training Research Center (PTRC), India.....	49
Accident and Disease Compensation System and Practices in Taiwan.....	58
Presentation from Tsai, Chih-Chieh, Ching-Jen Labor Health and Safety Service Center, Taiw an.....	58
Presentation by Chen Yong Gang, Labor Education and Service Network, China.....	60
Day 2 Session: Electronics Industries	61
Presentation by Mr. Suchart Trakoonhoothip fom Friends of Women.....	61
Presentation by Mr. Tara Bourkamsri from GreenPeace.....	62
Presentation by Irene Xavier from Malaysia.....	63
Presentation by Wu Chih-kang from Taiwan on RCA.....	64
Session 3	64
Problems of women and their role in victim’s movement especially in Toy Industry	64
Presenattion by Chen Yuying, Center for Self-strengthening for Disabled Persons on Zhilli fire in China.....	65
Presentation by Rasamee Suparaim, victim of Kader Factory fire in Thailand.....	66
Chan Ka Wai from HKCIC.....	67
Mabel Au from Committee for Asian Women (CAW).....	68
Session on - The Construction Industry	69
Bala Krishnan, Malaysia.....	69

Azman Sah Sabali, Malaysia from NIOSH.....	69
A.R. Chowdhury Bangladesh.....	70
Vijay Kanhere, India	70
Session name: Mining Hazards	71
Sanjiv Pandita, Coal Mining in Dhanbad , India	71
Earl Brown -.....	71
Day 3.....	72
Session: A Special Training on using simple testing devices to check loss of hearing demonstrated by Vijay Kanhere and Malavadkar Pralhad.....	72
Lin Hsin Yi, TAVOL.....	74
Chan Kam Hong, ARIAV, HK.....	75
Session: Future Plan for ANROAV	76
List of Participants.....	77
Overseas Participants.....	77
Participants from Thailand.....	80

Background

May 10, 2003 was the 10th anniversary of the Kader Fire. It was a gruesome accident that claimed 188 lives and injured many others. The Kader fire was followed by a similar fire in Zhili Toy Factory in Shenzhen, China which killed 87 workers. Kader and Zhili are the stark realities of the work conditions in Asian factories, where profits take prominence over the lives of workers. As per the recent ILO estimate, about 2 million workers die worldwide every year in work related accidents and diseases. More than half of these deaths occur in Asia with China and India having the highest death tolls respectively.

Right to life is the fundamental human right and it includes right to safe and healthy workplace. However, for millions of workers, working in Asian workplaces, it is a privilege rather than a right. Kader disaster is indicative of the workplace conditions not only in Thailand but also in many of the Asian countries, which have been opening their economies and liberalising trade to pave way for the export driven economy with no consideration for the health and safety of workers. This has led to a mushrooming of export-oriented factories that are labour intensive and employ mostly women. Authorities boast of cheap labour and almost no labour laws, to entice the investors, health and safety of worker is out of question as it is seen as a cost rather than investment. The investors on their part bypass every safety norm in their bid to cut production costs. Cheap labour invariably means cheap lives and limbs of the workers.

Contextual Reality

The meeting was important considering the following realities in the region:

Key Issues/Problems in the region

- Large number of workers die or get disabled due to occupational accidents or disease across Asia. All the figures of death and disease are speculative and no one knows the real number. Majority of the countries do not have a good reporting system and the government statistics provide only a part of the picture, as most of the accidents and diseases are not reported.
- Most of the occupational diseases go undiagnosed or are not properly diagnosed. Very few doctors specialise on OSH as it is not seen as 'profitable'. Many occupational diseases like Bysinosis (a lung disorder in textile workers) and Silicosis (respiratory disorder in mining workers) are misdiagnosed as tuberculosis.
- Once the worker is disabled by accident or disease, it is almost impossible for him/her to get compensation. The legal procedures are cumbersome and majority of workers give up as they cannot sustain the struggle with the might of capital. Lawyers are also reluctant to take up the case of injured workers, as they

cannot pay the fee. Thus a large number of workers with lost limbs or disabling disease fail to receive any compensation.

- Trade unions find it difficult to organise workers on this issue and their demands to management have not moved beyond the conventional or traditional issues of wages, bonus etc. Due to frequent layoffs, trade unions are losing their membership and preventing job loss is more important issue than anything else. Bargaining with management on issues of occupational health and safety seems to be a distant dream.
- Health and safety is not on the agenda of the governments in the region, they are trading their cheap labour and lax labour laws for dollars (in fact trading lives of workers). Things are getting worse after the Asian Financial Crisis as unemployment has shot high and for a worker having a job is more important than its quality and this is fully exploited by both governments and multinationals.
- Information available on the subject is very technical and workers often fear that only 'experts' can handle this issue.
- Multinationals are responsible for exploiting the labour of the developing countries in order to earn more profits. Thousands of workers and community members die due to gross negligence of MNCs like RCA, Bhopal and much more, yet they become more and more powerful, some of them even bigger than the economies of smaller countries.

The Conference

The conference was organised by AMRC in collaboration with ANROAV and with the support from Oxfam Hong Kong and the American Centre for Labour Solidarity, Bangkok office. The conference was originally scheduled to take place in May (at the time of the anniversary). However, due to the SARS epidemic, it was postponed to July and was held from July 25 to 27, 2003 in Bangkok. The conference was attended by participants from China, Hong Kong, Macau, Taiwan, Korea, Japan, Indonesia, Malaysia, Thailand, Vietnam, Australia, India, Bangladesh and Nepal

The meeting, which consisted of focused meetings and workshops, had following objectives:

- To analyze the accident and disease compensation system across the Asian countries and compare the similarities and differences. This will be precursor for providing the necessary information to workers and victims in the region about the available laws and systems and also to develop joint and common strategies across the region for better social security for the workers.
- To provide updates on the conditions, struggles and campaigns in the specific industrial sectors (predominantly hazardous) like toys, electronics, construction and mining and devise joint strategies and campaigns on each industry.

- To invite participants from the environmental justice movement (like Green Peace) and develop joint strategies to achieve common goal of safe industries both for people and environment and demand justice for workers and community affected due to unsafe industrial practices.
- To devise strategies and plans on strengthening the victims' movement and also spreading it across other regions.
- To launch some specific campaigns like toy, asbestos etc

Proceedings

Session 1: Remembering Kader

The meeting started with paying homage to the dead and injured workers in Kader Fire and an update on the situation of the Kader victims.

Apo Leong, executive director of the Asia Monitor Resource Centre started the proceedings and expressed satisfaction at the presence of many victims' groups and other health and safety groups in the meeting. This solidarity was an outcome of years of struggle and joint campaigns by many of the groups present in the meeting for better health and safety at the workplace and also for the rights of the affected workers or the victims of the industrial accidents or disease. He expressed the grave concern about the rising death toll due to occupational accident and disease and quoted ILO figure of 2 million deaths in a year. Apo further said that the workers dying due to accidents are not merely accidents but disasters due to the negligence of the employers and the government. He also announced the presence of Chinese victims groups in the meeting for the first time as a positive sign in developing solidarity across the region.

This was followed by **speech from Tien Chua**, a labour activist from Malaysia who was recently released from prison after being unfairly detained for his struggle for labour and human rights. Tien expressed his joy for being able to join his first international gathering after his release. Tien was working for AMRC when the Kader fire accident took place and he visited the factory two days after the fire. He was part of the delegation that picked the toys from the factory and those are now displayed in the Thai Labour Museum. Tien recalled the horror of the accident and many people thought of doing something about the workers' safety and health. He added that Kader was not unique, but it was so horrific that it set many people thinking of doing something for OHS to help workers. Workers come to exchange their labour for wages not their lives and health. He stressed that we have to fight together. "This is a long struggle and requires everyone's contribution. We have to fight."

Professor Voravidh introduced WEPT (The Council of Work and Environment Related Patient's Network of Thailand) and its Chairperson, Ms. Somboon Sikamdokkhae

Ms. Somboon is the Chairperson of the victim's group called WEPT. WEPT was formed 2 yrs after the Kader incident in 1994. It is composed of workers from Bangkok textile factory who were affected by Bysinosis, a lung disease among the textile workers. When the workers fought for compensation, the factory laid them off. Somboon organized them outside the factory and fought to get compensation from the factory for their treatment. WEPT is also part of the ANROAV network. It is also trying to have impact on Government policies and trying to push OHS bill and asking for OHS Institute. Somboon is also part of Assembly of The Poor. So WEPT is part of a large

movement. The Thai government talks about GDP but not of the hidden cost of industrialization. These are the workers. The government looks only at compensation but the government doesn't look at workers as humans or citizens of the country. Somboon realized that if victims are not organized, they become poorer and gap between rich and poor gets wider. So the question was not just to get justice but also organize. The government in each country in the region is trying to promote good environment for investment so they are on same side. So this increasing competition is perpetuating a race to the bottom: low wages, less protection for workers and bad standards of OHS and these effect workers' lives.

There is deficiency in government's statistics in illnesses related to work. In Thailand, there is no statistic on the number of workers compensated. A global solution problem is needed. Government's indifference leads to human rights violations.

Now, Somboon has 40 court cases. From her experience, victims' struggle cannot be ignored. The legal system is slow and for poor people a long drawn case, for 7-9 years is difficult financially for them and hence getting an equal standing in law is a problem.

In Thailand politics has been reducing the confidence of people in the Government, due to rampant corruption. There is a tendency to go towards the social movements. Workers want to go to victims' groups, NGOs and solidarity supporting organizations for immediate solution and for policy changes."

Following Dr. Voravidh, Ms. Somboon presented some of the Victims groups' struggles in Thailand.

Somboon stressed that the meeting was not only for memorial of Kader or Zhilli victims, but to exchange ideas and experiences to improve lives of workers and for their equal participation and status in society. She stated that when workers die at work, their families are also affected deeply. Old grand parents (parents of the victims) have no economic support left as many workers are the sole bread earners in the family. The parents also had to take care of the children of the victims at the old age with little financial sources. Any compensation received could not compensate for this loss and suffering. She also thought that this was also a crisis for the lives of workers. The government does not value it or recognize it. ANROAV at the moment is so important as it is a collective to seek social.

There was a screening of a video on the Kader fire

This was followed by **presentation by Mr. Jaded Chaowilai** of Friends of Women Foundation (FOW) to speak on the Kader Factory fire.

Jaded informed the participants about the research on the lives of Kader victims and their families. FOW has been studying the kinds of impacts on victim's lives. The first

is the economic impact on families of the victims. The second is impact on the education of victims' children, third is the impact on the families of the victims. Last and most important is the impact on the lives of the injured people, finally we also have a research for recommendations from the families of Kader. The research has involved studying the 59 families of victims. All of them are poor. Around 20 families are farmers and the same number is self employed. Others are labourers in factories. The average daily wage is 50 -100 baht per day. Those who are doing agriculture, they do not have regular wages due to floods and other natural disasters. It is also the same with the self employed families- they don't have regular income. Due to economic crisis they have suffered a lot.

For the second impact on education, there are 86 children from Kader victims' families that FOW has studied. Only 68 children are continuing their study, the rest have left the school. The main reason for dropout is economic crisis. Even after receiving some compensation, it was not enough to continue the education of these children. Other important factor is because mothers who died in the fire, their family got broken and the children have family problems and they have difficulty with step parents and they quit school. Another impact on the family after the Kader fire is that many families got broken and uprooted. In Thai society mother is more important in taking care of the children. Among the 59 families FOW has studied, 46 husbands got married to other women and the kids of the family could not adapt to the new family, so they dropped out of school or ran away and got addicted to drugs and became street children. Around 10 families are uprooted and the children have run away.

From their study, FOW has come up with the demand from families of the cases we studied. The demands are:

- 1- The government to help the families to set up the fund to help the financial situation of the family.
- 2- Provide education to the children of the affected family and there should be provision of state scholarships so that the children can continue their education
- 3- With the injured case, the government should pay compensation for them, not for the limited time but for the rest of their lives.
- 4- An Institute for OHS: it is still a bill to be submitted to parliament.

This session ended with the **presentation of a worker Rasamee Suparaim**, who survived in the factory fire. She said,

"Actually the Kader fire occurred 10 yrs ago. So I will not talk about it, I will just make some observations on the accident. Actually the structure of the building (Kader factory) was not strong. So the building collapsed very fast. Therefore the workers were not able to escape. This is not only the mistake of the employers but also the government because it gave permission to build the building. The safety of the workers should have been considered. This mistake of the government has not yet been addressed by the government. There are still many existing factories in the area like Kader.

Next I will talk about the court case of Kader. This case is actually withdrawn from the

court. There are no victims to continue the case since there was a compromise between victims' families and the employers that they will not sue Kader after getting compensation. The court should punish the employer. It is a police case and not a civil code. We also did not know what was going on in the court case.

We also need to learn that incidents like Kader should not happen. Because of this fire, a lot of workers lost their lives. I became disabled and I have problems in my daily life. Beyond that I lost my basic right- to work, to education. I have to be patient to live with normal people or to continue my studies. Most of the people look at disabled persons with prejudice and marginalise them. It makes me feel discriminated and marginalised in society."

Session 2: Workshop on Social Security focussing on Occupational Accident and Disease Compensation Systems in Different Asian Countries

Moderator of the session: Mr. **Earl Brown, from American Centre for International Labour Solidarity.**

Earl explained his work with the American Center for International Labour Solidarity; he also has been a lawyer for the past 25 years and has handled cases of workers affected in coal mines and other occupational diseases. Earl introduced the session about social security and workers' right to social security and its coverage of disability, retrenchment, and compensation for death.

In his introductory note, Earl, briefed about the compensation of industrial diseases & deaths and the families of the workers who die. The Industrial Union with whom Earl worked in the US which is portrayed as an advanced economy by some, have suffered tremendously. Part of his struggle has been to push the value of a human life and their body parts to employers. As long as this is cheap, then the cost of putting a machine guard and cleaning air will be considered higher, and workers will continue to die. At no place in World do they die at the rate as in Asia. Thailand kills more workers compared to China (in terms of rate of accidents). China's rates of deaths in coal mine are double that of India. Workers compensation is not considered an interesting topic, but it is important. In all countries workers must fight. They should be able to sue employers so that this is not left to ministries and bureaucrats. If this happens, then there will be no laws for workers. There will be no monitoring. He demanded, *"give private lawyers the right to sue on behalf of the victims' families.' They (the lawyers) should also have the financial incentive. The employers must have insurance for each worker and make this high, so that the employer has a financial incentive to provide safety to workers. Negligence is also criminal offence. Make them pay; get a legal system to support workers. It works for employers. So it should b made to use the other way. Trade Unions are important but it is also important to have victims' groups. This meeting is good because it brings diverse groups together."*

Presentation from Abul Hossain from Bangladesh, President of United Labour Forum and Bangladesh Garment Workers ad Employees Federation.

Law, Practice and Reality of OSH Status in Bangladesh

1. Introduction

Industrial workers in Bangladesh as well as in the region are in quite darkness about their OSH. Even trade unions are not aware of it; if aware they are not able enough how to make aware its workers. Some of trade union thinks some occupational accident and diseases can be solved immediately through the proper and sincere efforts by concern parties. But at first owners, trade unions have to be aware along with the workers to

make initiatives.

Industrial accidents occur in the structure or in the machines. They are caused either by faults in construction or lack maintenance and other preventive measures. In the last few years we have read reports of a large number of deaths caused in export oriented garments factories by fire.

Occupational hazards resulting from flouting of health and safety legislation are widespread in the industrial sector of Bangladesh. Various entrepreneur surveys found that the word 'occupational safety' is almost unknown to the employers. They think that there is no hazard in garment sector since does not involve any high technology and hazardous chemical is used in this industry. According to them, possibility of workers death due to accident at work place. Disability due to injury is almost zeroing in this sector. However, findings of Bangladesh Institute of Development Studies (BIDS) survey showed that occupational hazard is the main reason for the prevalence of widespread diseases and illness among the worker.

We have laws in the country-The Factory Act of 1965 and Employment Act 1965 which are very specific about maintaining safety and social security. Many of these laws have been inherited from British status formulated in the nineteenth century and perhaps some of this need to be changed. But even as they are, if they were reinforced, they could perhaps ensure proper condition of safety and social security. These laws provide for an alternative exit, an open gate to enable workers an escape during the accidents, maintenance of fire preventive measures and lastly provisions for providing training to in fire drill.

The review of the situation revealed that laws are existing for the formal sectors but no laws exist for informal sector. It is evidenced that vast majority of the workforce are involved in the informal sector-particularly for the agriculture sector. The existing laws do not cover the sectors such as-construction, transport, ship-breaking, engineering, automobile and domestic workers, But the mentioned sector have the more relevancy of OSH issues that the formal sector.

2. UDHR & Social Security

Article 22: Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

3. Bangladesh Constitution & Basic Principles of Social Security

Article 14: Emancipations of Peasant and Workers

Article 16: Rural Development and Agrarian Revolution

Article 18: Public Health and Morality

Article 19: Equal Opportunity

4. ILO Conventions & Social Security

- Convention of Social Security (minimum standards) 1952
- Convention of Equal Treatment (social security) 1962
- Convention of Maintenance of Social Security Rights 1982 (Not yet ratified by Bangladesh Government)

Government of Bangladesh ratified the above convention.

5. Laws Related to Safety and Security Factory Act 1965, Clause 12-42

Clause – 12: Cleanliness- (1) Every factory shall be kept clean and free from effluvia raising from any privy or other nuisance, details in sub clause-a, b, c, d-i, ii, iii & iv, e. and (2).

Clause – 13: Disposal of wastes and effluents- (1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein and clause (2)

Clause – 14: Ventilation and temperature-(1) Effective and suitable provisions shall be made in every factory for securing and maintaining in every work-room in sub clause-a, b-i, ii, (2 & 3).

Clause – 15: Dust and Fume- (1) In Every factory in which by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious are offensive to the workers employed therein, effective measures shall be taken to prevent its accumulation in any work room and..... sub clause (2).

Clause – 16: Artificial humidification-(1) The Government may, in respect of all factories in which humidity of the air is artificially increased make rules-a, b, c, d, (2 & 3).

Clause – 17: Overcrowding-(1) No workroom in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.... sub clause (2-a, b), (3 & 4).

Clause – 18: Lighting-(1) In every part of a factory where workers are working or passing, there shall be provided and maintained sufficient and suitable lighting, nature or artificial, or both. Sub clause..... (2), (3-a, b) and (4).

Clause – 19: Drinking water-(1) In every factory effective arrangement shall be made to provide and maintain at a suitable point conveniently situated for all workers employed therein, a sufficient supply of wholesome drinking water. (2, 3 & 4).

Clause – 20: Latrines and urinals-(1) in every factory-(a) sufficient latrine and urinals of prescribed types shall be provided conveniently and accessible to worker at all times while they are in the factory.... - b, c, d, e and (2).

Clause – 21: Spittoon-(1) In every factory there shall be provided at convenient places, a sufficient number of spittoons which shall be maintained in a clean and hygienic condition.. (2, 3 & 4).

Clause – 22: Precautions in case of fire-(1) Every factory shall be provided with such means of escape in case of fire as may be prescribed (2, 3, 4, 5, 6, 7 & 8).

Clause – 23: Fencing of machinery-(1) In every factory the following shall be securely fenced by the safeguards of sustainable construction which shall be kept in position while the part of machinery required to be fenced are in motion or in use, namely - a, b, c, d-i, ii, iii, (2, 3 & 4).

Clause – 24: Work on or near machinery in motion-(1) Where in any factory it becomes necessary to examine any part of machinery referred to in section 23 while the machinery is in motion, or as a result of such examination to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged such worker shall not handle a bolt at a moving pulley unless the bolt is less than six inches in width and unless the bolt-joint is either laced or flush with the belt. (2 & 3).

Clause – 25: Employment of young person on dangerous machine-(1) No young person shall work at any machine unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed -a, b, (2).

Clause – 26: Striking gear and devices for cutting off power-(1) In every factory (a) suitable striking gear or other efficient mechanical appliances shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed; places and maintained as to prevent the belt from cropping back on the first pulleys -b, (2 & 3).

Clause – 27: Self-acting machines-No traversing of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass where in the course of his employment or otherwise be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not part of the machine...

Clause – 28: Casing of new machinery-(1) In all machinery driven by power and installed in any factory after the commencement of this Act -a, b (2 & 3).

Clause – 29: Prohibition of employment of women and children near cotton openers- No women or child shall be employed in any part of a factory for processing cotton in which a cotton opener is at work...

Clause – 30: Cranes and other lifting machinery-(1) The following provisions shall apply in respect or cranes and all other lifting machinery, other than hoists and lifts, in any factory - a-i, ii, iii, b, c, (2-a, b).

Clause – 31: Hoists and lifts-(1) In every factory (a) every hoists and lift shall be-(i). of good mechanical, sound materials and adequate strength. (ii) properly maintained and shall be thoroughly examined by a competent person at least once in every three months, and a register shall be kept containing the prescribed particulars of every such examination -b, c, d, e, 2-a, b, c, (3 & 4).

Clause – 32: Revolving machinery-(1) In every room in a factory in which the process of grinding is carried on, there shall be permanently affixed to, or placed near, each machine in use a notice indicating the maximum safe working peripheral speed of every grind stone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed. (2 & 3).

Clause – 33: Pressure plant-(1) If in any factory any part of the plant or machinery used in a manufacturing process is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded and (2).

Clause – 34: Floors, stairs and means of access- In every factory
(a) all floors, stairs, passages and gangways shall be of sound construction and properly maintained and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with sustainable handrails, -b,

Clause – 35: Pits, sumps, opening in floors, etc. -(1) In every factory, every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation construction or contents is or may be a source of danger, shall be either

securely covered or securely fenced. (2).

Clause – 36: Excessive weights-(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury. (2).

Clause – 37: Protection of eyes-(1) The Government may, in respect of any manufacturing process carried on in any factory, by rules, require that effective screens of suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of a process which involves....a, b.

38. Powers to require specification of defective parts or tests of stability-If it appears to the inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may serve on the Manager of the factory an order in writing requiring him before a specified datea, b.

Clause – 39: Safety of building and machinery-(1) If it appears to the Inspector any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the Manager of the factory, an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.. (2).

Clause – 40: Power to make rules to supplement this chapter-The Government may make rules requiring that-(1 & 2).

Clause – 41: Precautions against dangerous fumes-(1) in any factory no persons shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involves risks of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.. (2), (3-a, b), (4, 5 & 6).

Clause – 42: Explosive or inflammable dust, gas etc.-(1) Where in any factory any manufacturing process produces dust gas, fume or vapour of such character and to such extent as to be likely explode on ignition, all practicable measures shall be taken to prevent ay such explosion by - a, b, c, (2), (3-a, b, c), (4 & 5).

6. Laws Relating to Social Security

i. The Workmen’s Compensation Act 1923

An act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

Whereas it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

Compensation Payable as per 1923 Law in Certain Cases

Monthly wages of the workman injured		Amount of compensation for permanent/ death total disablement		Monthly payment as compensation for temporary disablement
But not		Death	Total Disablement	
More than	More than	Tk.	Tk.	Compensation shall be paid for the period of disablement or
0 to	100	8,000	10,000	for one year whichever period is
101 to	200	12,000	16,000	shorter, Such compensation shall
201 to	300	14,000	19,000	be paid at the first two months
301 to	400	16,000	21,000	wages for the first two months
401 to	500	18,000	26,000	two-thirds the monthly wages for
501 and	above	21,000	30,000	The next two months and at the rate of half of the monthly wages for the subsequent months. In case of chronic occupational diseases, half of the monthly wages during the period of disablement for a maximum period of two years shall be paid.

** Labour code 1994 proposed highest amount for death Tk. 61,000 and total disablement Tk. 86,000. But not yet passed by parliament.*

ii. The Provident fund Act 1925: Its a one kind of Social Security of Workers and Employees.

iii. Gratuity (Standing order 1965): Every worker gets 14 days salary of every working years of end of the service.

iv. The Payment of Wages Act 1936: It is a procedure of payment of wages to the workers and employees.

v. The Employment Liability Act 1938: An Act to declare that certain defences shall not be raised in suites for damages in respect of injuries sustained by workmen.

vi. The Maternity Benefit Act 1939: It is also guarantee social security the working mother. It provided six weeks (Three weeks pre-delivery and three weeks post delivery) maternity leaves with payment.

vii. The Companies Profit (Workers Participation) Act 1968: This act is a safe guard to the workers. They could consume sum total of profit of company.

viii. The Fatal Accident Act 1855: An act of provide compensation of families for loss occasioned by the death of a person caused by actionable wrong.

7. Industrial Sector

RMG Sector

The export oriented garment industry of Bangladesh is now crossing two decades of its success. Though this industry sets out by exporting readymade garments produced by a modest number of factories (3 factories) during 1977-78, now it stand as a supreme earner of total foreign currency of Bangladesh. In 2000-2001 this industry earn about six billion dollar that was 76 percent of total national export. Meanwhile, we came to know from a recent report articulated by the World Bank that the exporting sector of Bangladesh was playing a significant role in the development. RMG sector employed 1.6 million workers in 3500 factories.

The basic cause of industrial accident can be attributed to the unplanned and unsystematic set up of factories. Most of the factories have been housed in a clumsy condition which is very risky and hazardous working environment to workers.

In-fact, all the garment factories are located in the residential and commercial area of Dhaka, Chittagong, Narayanganj, Tongi, Gazipur, Saver etc. So the industry and factory law of 1965 is not abided by the setting up this industry. Besides, most garment factories hardly comply with safety rules. So, naturally the garments workers have to suffer a lot of occupational accident. The occupational health and safety condition of the workers belonged to the industry, is getting more critical and complicated gradually. In the last decade near about 50 major and minor fire accident took place in this industry and more than two hundred workers were died and more than thousands of workers injured. Devastating fire also destroys huge wealth of garment industry which creates a great problem for buyers and a bad impact in the national economy.

i. Occupational Illness and Disease

Findings of the BIDS survey revealed that the more prevalent illness/ diseases among the garments workers were ache in the head, chest, stomach, eye and ear; physical weakness, less appetite, vomiting tendency; fever, cough and cold, typhoid, jaundice; diarrhoea, dysentery, urinary tract infection and reproductive health problems. The garments worker have also been suffering from a number of chronic diseases, that is, diseases from which the workers had been suffering continuously for more than one year. The findings showed that 42 percent of the female workers and 24 percent of their male counterparts had been suffering from chronic diseases like gastro-intestinal

diseases, blood pressure, anaemia, sexually transmitted disease (STD), urinary tract infection (UTI), menstrual problem etc. The abortion rate among the garment workers is high. About 18 percent of married workers experienced abortion, and half of them had undergone abortion more than once.

Incidence of these illness and diseases across the length of service showed that a garments worker suffers more from almost all diseases and illness as her/ his length of service extends. It seems that it is occupational hazards that thrown the garment workers in potential risk of having ill health. Garment work saps the energy of the garment workers to the extent that their active working life is shortened. Due to this reason most of the garment workers can only envisage working in the garment factory for 4 years, on an average. It was found that most of the garment workers were in comparatively good health before they had undertaken employment in the garment sector. All of them reported that they became sick after undertaking jobs in the garments factory. All these facts reveal there are large-scale occupational hazards, which may arise both from in congenial working environment and stringent terms and condition of garment work.

ii. Occupational Hazard Arising from Workplace Work Place

Workplace stress affects garment workers’ mental health very adversely. It was found that job insecurity, irregular wage payment, excessive demand on workers’ labour, overtime work etc., were the main sources of workplace stress. Most of the jobs the female workers hold in the garment industry are temporary in nature. They are hired when needed and fired when the need is over. Therefore, the female workers suffered greatly from job insecurity, which involves the risk of unemployment. Wage payment in most case is irregular. Most factories keep one-month payment of overtime earnings as security money which, in most cases, the workers do not get back. To use the work hours efficiently, the employers have begun to set a production target for the workers. Most workers, particularly female workers reported that the production target, set for them is too high to be met within their normal work hours. About half of the operator category workers, in their rush to meet the target, often faced accident, like pricking of finger by needle, hurting finger tips, etc. and forget to use appropriate personal protective gear, which is detrimental to their health and safety. Mistakes in work often result in retrenchment from the job, beating and verbal abuse by the supervisor.

iii. Major Fire Accident in RMG Sector Last Decade 1991-2001

SI #	Name of the Factory	Cause of Accident	Date of Accident	Number of Death	Number of Injured	Compensatio Tk
1	Saraka Garments Mirpur-10, Dhaka	Electric Firing	27-12-90	27 persons (include proprietor)	100 persons	23 x 25,000 5,75,000
2	Proster Industrial Ltd.	Electric Short	11-12-94	05 persons	50 persons	5 x 50,000

	Mirpur, Dhaka	Circuit				2,50,000
3	FA Fashions Ltd. Lusaka Apparels Ltd Ibrahimpur, Dhaka	Electric Short Circuit	05-08-95	10 persons	50 persons	9 x 50,000 4,50,000
4	Tymud Fashion Ltd. Suntex (Bd.) Ltd. Pallabi, Dhaka	Electric Short Circuit	24-06-96	14 persons	60 persons	12 x 29,00 3,48,000
5	Rahman & Rahman Apparel Ltd. Maxborn (BD) Ltd. Mirpur, Dhaka	Electric Short Circuit	15-07-97	22 persons	200 persons	9 x 29,000 2,61,000
6	Tamanna Garments Ltd. Shanghai Fashion Ltd, Mirpur-1 Dhaka	Electric Short Circuit	30-07-97	27 persons	100 persons	25 x 29,000 7,25,000
7	Novaly Garment Ltd Rasulbagh, Dhaka	Electric Short Circuit	06-09-97	5 persons	50 persons	5 x 29,000 1,45,000
8	Palmal Garments Ltd. Uttara, Dhaka	Boiler Burst	22-06-99	10 persons	Nil	10 x 1,00,00 = 10,00,000
9	Rose Garments Ltd. Tongi, Gazipur	Electric Short Circuit	09-07-99	05 persons	50 persons	-
10	Globe Kniting Ltd. Banani, Dhaka	Fire from wear house	27-08-2000	12 persons	50 persons	9 x 1,00,000 9,00,000
11	Chowdhury Knitwear Shibpur, Narshangdi	Electric Short Circuit	25-11-2000	54 persons	200 persons	29 x 1,0000 = 29,00,000
12	Mico Sweater Ltd, Mirpur, Dhaka	Electric Short Circuit	08-08-2001	24 persons	100 persons	20 x 50,000 10,00,000

iv. Policy Measures

Following policy measures may solve the problems of occupational illness and diseases prevalent among the garment workers.

- Introduction of a Two Shift Working System
- Implementation of Labour Laws

- Health Insurance Programme
- Supply of Iron and Vitamin Tablet
- Supply Staff Amenities and Launching of Advocacy Programme of Cleanliness
- Providing Health Facilities Within the Factory
- Raising of Awareness about Occupational Hazards
- Training for Fire Fighting
- Setting up of Garment Village

8. Agriculture Sector

A person is to face various kinds of environment in various times for the cause of occupation. Ninety percent of our population is farmer and due to proper causes they are to face various kinds of unfavourable environment related to agriculture. But it is seen sufficient lack of proper wisdom and knowledge among them about their occupational health and safety due to continuous poverty and want of primary health awareness. The total number of working people of Bangladesh is 6 crore and 3 lack (60.3 million). Among them 83% is agriculture depended rural working people and out of them 62% are integrated farmers. But only 17% labour force is included under the existing labour law or under the rules of factory enforced in Bangladesh. No proper laws or rules have been enacted for the rest of the vast number of working people (mainly agricultural workers). Even basically no massive and scientific survey on occupational health, safety and accident of professionals was done properly till today. Bangladesh Agricultural Farm Labour Federation conducted a survey on ‘Occupational Health and Safety of Agricultural Workers’. The survey show:

a. Occupational Disease

- 46% Pain of abdomen or chest or diarrhoea
- 10% Malaria
- 28% Accident related
- 16% Hernia, Appendicitis, Eye operation, obstetric complications, asthma, Arthritis, High blood pressure, Teeth ache etc

b. Allergy, Asthma, (respiratory problem) Chronic Bronchitis, farmer's lung:

As the farmers are to stay in touch of bio-particles for a long time, the rate of allergy related diseases are very high.

c. Burgers diseases/ Neuropathy in feet finger/ ulcer

It is a kind of disease in which cells dies by shrinkage of peripheral blood vessels and later on loss of feelings and start gangrene and ulcer. As a result at the final stage hand and feet may be imputed. All the risks of this disease are seen among the agricultural workers, those are-male sex, group smokers, age group of 40, walk in barefoot etc. At the starting point of this disease it appears as paraesthesia in the finger of hands and feet, pain in muscle and later on the patient may loss feelings of touch, pain sensation etc. and as a result any part of the ulcer may be Converted in to Gangrene being rotten. And in any moment part of hands and feet or total limb may become inactive.

d. Communicable diseases

- Dysentery or loose motion
- Jaundice
- Tuberculosis
- Leprosy
- Fungal infection
- Fever
- Cough

e. Non Communicable diseases

- Arthritis
- High blood pressure
- Pain in the abdomen and chest
- Vertigo

- Weakness
- Diabetes
- Epilepsy

f. Occupational health hazards and accidents

- Infection in cornea
- Victim of accident in belt or rice mill or power tiller
- Snake bite
- Pesticides
- Accident related to agricultural hand tools
- Hurt from sharp horns and hoops of cows and buffaloes
- Attack of snail and leech
- Hurt from sharp leaves of crops

9. What Can Be Done

On the light of the above discussion the following recommendation can be done:

- Informal sector particularly for the agriculture sector there is no law for OSH. However, in this region vast population working in this sector, remain vulnerable in terms of OSH. It is the felt need of enacting laws to protect the interest of the workers of this sector as such it is the backbone of the national economy.
- Both in formal and informal sectors, the most neglected are the women workers. They are unaware of the laws, as well as their rights. Measures to be taken to make them aware of the existing laws and women's human rights.

- Laws regarding OSH must be implemented properly. Trade unions, civil societies and other concerned organizations should continue their pressure, lobbying and advocacy.
- Mass awareness on OSH to be carried out through using mass media and by other means by the government and other concerned organizations
- Political parties, trade union, civil society should act as an active agent of educating the people and its own members on OSH constantly.
- Need to organized awareness program of occupational accident & diseases.

Workers' Compensation in Japan Case Study - Asbestos-Related Diseases
Presentation by FURUYA Sago, Secretary General JOSHC: Japan
Occupational Safety and Health Resource Center

I have a report entitled "Occupational Diseases in Europe - comparative survey conducted in 13 countries" (Eurogip, 2000). I would like to introduce Workers' Accident Compensation Insurance scheme in Japan in line with a case study given in this report and to compare Japanese system with European systems.

A given case:

"A man aged 50 is affected by an asbestosis complicated by a lung cancer. 20 years ago, he worked for 5 years in a firm, which produced car brakes incorporating asbestos; he is also a former smoker. His current gross wage is 2,500 euros/month (30,000 euros/year). He has to take leave from his job to undergo surgery (a lung ablation), followed by major therapeutic treatment (chemotherapy). After 8 months away from work, he is incapable of resuming his job.

He dies a few months later leaving behind him a widow, 4 children from a first marriage (aged 23, 20, 18 and 17, all students), and 2 children from the second marriage (aged 4 and 1). "

<File a claim>

A victim/survivor must submit the application forms for workers' compensation benefits (for the given case, Medical, Absence and Survivors Compensation Benefit and Funeral Expense) to Labour Standards Inspection Office (LSIO) that has jurisdiction over the victim/survivor's address or the address where the car brake firm exists/existed).

Many of victims/survivors are not informed about the workers' accident compensation scheme and its application procedures. And victims become sick many years after they left the job in such cases as asbestos-related diseases, so they often don't remember when, or even whether they were exposed to asbestos.

So if practical advice/assistance would not be available, victims/families might be impossible to file a claim for compensation. We have been supporting victims/families to get compensation. Victims/survivors arrive reach our office through various but narrow paths.

The deadlines for submitting the application forms are 2 years for Absence and Medical Compensation Benefits, and 5 years for Disability and Survivors Compensation Benefits and Funeral Expense.

<Hospital/clinic>

A doctor who suspects occupational origin of an injury/disease isn't obliged to notify such injury/disease to a competent authority such as LSIO in Japan.

All application forms for workers' compensation insurance benefits have columns for a doctor's certification. The application form for Medical Compensation Benefit shall be submitted to LSIO via hospital/clinic in principle. (Thereby a victim can receive medical treatment free of charge.) And opinion(s) of victim's doctor(s) has a heavy weight in recognition of occupational injury/disease. So the help from victim's doctor(s) is needed and crucial.

However generally doctors and other relevant staffs of the hospital/clinic are not trained well about the workers' compensation system/procedures as well as about occupational medicine, and intend to avoid "troublesome" jobs. As for lung cancer, doctors always ask "do you smoke?", but rarely ask "have you been exposed to asbestos?".

We will explain them the system/procedures, the victim and the work, and ask to their help. If they still wouldn't help and/or the medical treatment wouldn't be proper for a victim, we might recommend the victim to change to another hospital/clinic. But it would be impractical in a case such as the given case.

Supposedly, all people who live in Japan are covered by some health care insurance, and which health care insurance shall be used is clear at the time of patient's first visit of hospital/clinic. But the reality proves different. In many cases, medical treatment has been conducted by using other health care insurance when we meet a victim/family. If the hospital/clinic will submit an application form for Medical Compensation Benefit of workers' compensation insurance to a LSIO, prior to do so, the hospital/clinic must pay back benefits received from the other health care insurance. But if the LSIO would decide not to pay the workers' compensation insurance benefit recognising the case to be ineligible afterward, the hospital/clinic couldn't cover other than asking the victim to pay those expenses. There is no proper system to adjust between the workers' compensation insurance and the other health care insurance without imposing any burden upon a victim in Japan.

This is not only troublesome but also unfair. And this could be a reason a hospital/clinic wouldn't help a victim to forward the procedures. So we will ask the LSIO to start the investigation for recognition following the submission of an application form for Absence Compensation Benefit or other benefit. After the LSIO decides the case as eligible for compensation, the hospital/clinic pays back benefits received from the other

health care insurance, and then submits an application form for Medical Compensation Benefit to the LSIO. The LSIO may ask a victim to submit a written pledge to (make the hospital/clinic to) do so.

<Employer>

For the given case, an employer in question is the employer of the car brake firm for which the victim worked for 5 years 20 years ago.

Article 23 of the Enforcement Regulations of the Workers' Accident Compensation Insurance Law (WACIL) prescribes that "the employer must promptly certificate the necessary information when a victim/survivor asks". This clause is not the subject to punishment. In reality employers often refuse the certification and other assistance.

At present we can make the LSIO to receive application forms without employer's certification if the employer refused it.

If the firm has been closed, we must find (written certifications by) 2 ex-fellow workers to prove the fact that the victim had worked for the firm.

The amounts of Absence, Disability and Survivors Compensation Benefits and Funeral Expenses are calculated on the basis of gross wage that the victim had earned for the last 3 months at the car brake firm, with a sliding scale system, in principle. Concerning the benefits paid in the form of pensions, bonuses that the victim had earned for the last 1 year at the firm (20% of the amount of all bonuses, but limited up to 1.5 million yen) is added in the calculation. If those information are not available the chief of the Prefectural Labour Office determines the basis. And the sliding rates are revised by the Minister of Health, Labour and Welfare (MHLW) annually.

If the employer supports the case to be recognised as occupational diseases, and offers/informs us the relevant data, information, etc., it should be better. So we will negotiate with the employer to do so.

<Labour Standards Inspection Office>

The LSIO, which received any application form for workers' compensation benefit, will start necessary investigation/examination. The LSIO will;

- hear from the victim, families and fellow workers about the works, situation of exposure to hazards, health situation and diseases (including other than diseases in question) of the victim and other fellow workers, etc.,
- hear from the employer about the business and victim, the results of working environment measurement and health examinations, etc., and ask to submit the

relevant data, information, drawings and photos, etc., and,

- ask the victim's doctor(s) to submit written opinions about the diagnoses, clinical and pathological findings, correlation between the victim's work and the diseases, etc., and chest X-ray film, laboratory results, relevant data, etc.

Then the LSIO will ask opinion from their medical advisor(s), and if necessary consult with the Prefectural Labour Office and the MHLW. At the end, the LSIO decides whether (whole or a part of) the compensation benefits should be paid or not.

We will submit the LSIO written opinion(s) based on the data/information obtained from the victim him/herself, families, fellow workers, employer, victim's doctor(s) and other resources to prove the case is eligible for compensation benefits. And if necessary we ask medical, legal and other specialist(s) to write independent opinion(s).

We will also often call and meet with official(s) of the LSIO calling for recognition as occupational diseases (ODs).

Q1: Is it an occupational disease?

A-Japan: **Yes.** Both diseases are included in the list of ODs. Asbestosis is comprised in pneumoconiosis that is prescribed in the list, and lung cancer due to asbestos exposure is listed as one of occupational cancers.

The recognition criteria for asbestos-related diseases are set up (and just now under the review). Both diseases will be considered to be compensable in the light of these criteria. If a victim has only lung cancer without pneumoconiosis, the recognition criteria requires 10 years period of occupational asbestos exposure in principle.

A-Europe: **Yes** for both diseases in 8 countries. In 4 countries, Yes for asbestosis, and there is reservation such as following asbestosis for lung cancer. In Sweden which has not a list of ODs, Yes for both diseases if proved.

Q2: Taking account of the fact that the victim is a smoker?

A-Japan: **No** for both occupational diseases.

A-Europe: **No** for both diseases in 11 countries. In Sweden, **Yes** for both diseases. In Italy, No for asbestosis, and Yes for lung cancer.

Q3: Reimbursement rate of medical expenses

A-Japan: 100%. All (expenses of) necessary medical treatments are granted as the Medical Compensation Benefit.

A-Europe: 100% in 12 countries. In Sweden, the victim has to pay 8.9 euros/day + 200 euros for chemotherapy.

Q4: Compensation for temporary disability for an 8 months sick leave

A-Japan: 80% of the daily average wage per day of absence is paid as the Absence Compensation Benefit for a period up to death (8 months + few (?) months (even if after his retirement) except for the first 3 days. Regarding the first 3 days, the employer of firm produced asbestos-containing car brakes must pay 60% of the daily average wage per day under the Labour Standards Law. Here, the average wage is calculated on the basis of gross wage that the victim had earned for the last 3 months at the car brake firm, with a sliding scale system. If the monthly average wage was 2,500 euros, the Absence Compensation Benefit is 2,000 euros/month (16,000 euros for 8 months). Japan's Workers' Compensation Insurance scheme doesn't adopt a concept such as "temporary disability".

A-Europe: For 8 months, from 14,000 euros in Portugal to 20,000 in Finland, aside from 5,130 euros in Greece.

Q5: Permanent disability rate

A-Japan: Japan's Workers' Compensation Insurance scheme adopts no concept like "permanent disability rate".

A-Europe: 50-100% (100% in 7 countries).

Q6: Compensation for permanent disability

A-Japan: The Enforcement Regulations for the WACIL has a table of disability grades for the Disability Compensation Benefit. But this benefit is paid where a disability corresponds with an any item in the table has been left after an injury/disease healed. Where medical treatment is still needed, and a worker is unable to work/obtain wages due to the medical treatment, the Absence Compensation Benefit should be paid, regardless of the length of period of absence in principle (even if after his retirement). The Absence Compensation Benefit is 80% of the average wage, so if the monthly average wage was 2,500 euros, it is 2,000 euros/month as mentioned above.

<Heals>

According to the government, the term "heals" refers to a situation where a symptoms have been stabilized and it is expected that any additional generally-accepted medical treatment will produce no positive results. This situation is called "consolidation". Accordingly, consolidation does not necessarily mean that physical conditions have been restored to the former state. This abnormal interpretation and its application often cause disputes.

A-Europe: From 1,667 euros/month in Germany to 3,375/month in Italy, aside from 710 euros/month in Greece.

Q7: Funerary expenses

A-Japan: 5,000 euros. The Funeral Expenses is 315,000 yen plus 30 days of the daily average wage (if this is less than 60 days of the daily average wage, 60 days of daily average wage).

A-Europe: From 1,103 in France to 3,865 in Germany, aside from 30 euros in Spain and 650 euros in Greece.

Q8, Q9: Compensation for the widow and the children

A-Japan: Amount and type (pension or lump-sum allowance) of the Survivor Compensation Benefit is determined by the number of survivors and other factors. If a widow was living on the victim's income when he died, and if all children are of the same livelihood with the widow, 19,167 euros/year (Survivors Compensation Pension) and 25,641 euros (Survivors Special Allowance, lump-sum payment) will be paid to the widow.

4 children who is aged under 18 are taken into account to calculate sums of the pension, but don't have individual rights to receive benefits. Amount of the Survivors Compensation Pension for 5 survivors (a widow and 4 children) is 245/365 (67%) of the victim's annual wage and this rate is the maximum amount of the Survivors Compensation Pension.

A-Europe (examples):

In Italy, 15,000 euros/year for the widow and 2,500 euros/year each for all of 6 children (total 30,000 euros/year, 100% of the victim's annual wage).

In Spain, pension of 13,500 euros/year to be shared between the 2 widows according to

the duration of the married life, and 3,300 euros/year for the 4 children aged under 21 (total 26,700 euros/year, 89% of the victim's annual wage).

In Sweden, 6,400 euros/year for the widow, 3,772 euros/year each for the 2 youngest children of the 1st marriage, and 3,772 euros/year each for 2 children of the 2nd marriage (total 21,488 euros/year, about 72% of the victim's annual wage).

In Greece, 3,120 euros/year for the widow and 900 euros/year each for all of 6 children (total 8,520 euros/year, about 28% of the victim's annual wage).

In Denmark, the widow will receive pension of 9,000 euros/year for only 3 to 5 years due to her young age and thus have the opportunity to vocational training/education and of being able to provide for herself. But the pension can be paid over 5 years, as long as the training lasts, and even over 10 years in some circumstances. She receives a transitional allowance of 13,467 euros plus running benefit amounting 30% of her husband's annual income).

<Recognition Standards for Asbestos-related Diseases in Japan>

A: Asbestosis

Apply to those who: 1) and 2)-a, or 1) and 2)-b

- 1) be exposed to asbestos in his/her work at present or in the past
- 2)-a have pneumoconiosis (asbestosis) which is classified as Grade 4 (heaviest pneumoconiosis, and the patient's need to be under treatment)
- 2)-b have pneumoconiosis (asbestosis) which is classified as Grade 2 or 3 (patient has clinical findings of pneumoconiosis), and with a complication (pulmonary tuberculosis, tuberculosis pleurisy, secondary bronchitis, secondary bronchiectasis or secondary pneumothorax)

B: Lung cancer

Apply to those who have lung cancer, and with: 1) , 2), or 3) (, or 4))

- 1) Asbestosis (on chest X-ray film)
- 2) Non-asbestosis (on chest X-ray film), with more than 10 years period of occupational asbestos exposure history, and with clinical findings such as continuous inspiratory fine crackles at lung bottom when he/she breathes in, pleural plaque or pleural calcification on chest X-ray film, or asbestos bodies in sputum
- 3) Non-asbestosis (on chest X-ray film), with more than 10 years period of occupational asbestos exposure history, and with pathological findings obtained from TBLB (transbronchial lung biopsy), open lung biopsy, autopsy, et al., such as diffuse fibrous proliferation, pleural plaque, pleural calcification, asbestos

- fibers or asbestos bodies in lung tissue
- 4) None of the above, but the patient has his/her history of relatively short, or intermittent temporary, high concentration exposure to asbestos
- In case of 4), the Ministry of Labour examines each case, determines whether the disease is occupational in origin or not

C: Mesothelioma

Apply to those who: 1) or 2) (, or 3))

- 1) have pleural or peritoneal mesothelioma with more than 5 years of occupational asbestos exposure history, and with asbestosis (on chest X-ray film)
 - 2) have pleural or peritoneal mesothelioma with more than 5 years of occupational asbestos exposure history, and with pathological findings obtained from autopsy, et al., such as diffuse fibrous proliferation, pleural plaque, pleural calcification, or asbestos fibers or asbestos bodies in lung tissue
 - 3) Non of the above, but the patient have pleural, peritoneal, pericardial or other mesothelioma, or diagnosis is difficult
- In case of 3), the Ministry of Labour examines each case, determines whether the disease is occupational in origin or not

Summary of Workers' Compensation in Japan

WACIL

In Japan, the most important workers' accident compensation scheme is administered by the Government (at a charge of the jurisdiction of the Ministry of Health, Labour and Welfare (MHLW)) under the Workers' Accident Compensation Insurance Law (WACIL).

The WACIL was enacted in 1947, at the same time when the Labour Standards Law (LSL) was enacted. The Labour Standards Law puts all employers under the obligations to comply with minimum standards of working conditions set up by this Law. The minimum standards of workers' accident compensation are prescribed in its Chapter 8. And the purpose of the Workers' Accident Compensation Insurance is to ensure the discharge of those employers' obligations under the Labour Standards Law by making covered employers taking out this obligatory insurance.

The Labour Standards Law also has a chapter for safety and health. Though as the contents and relevant regulations/guidelines had increased, the Occupational Safety and Health (OSH) Law was separately enacted in 1972. Now, Chapter 5 (Article 42) of the Labour Standards Law prescribes only that "matters concerning the safety and health of workers shall be provided for by the OSH Law". And Article 1 of the OSH

Law prescribes that "the purpose of this Law is to secure, in conjunction with the Labour Standards Law, the safety and health of workers in the workplaces as well as to facilitate the establishment of comfortable working environment". Many regulations and guidelines have been established under the OSH Law.

Covered Businesses and Workers

The WACIL applies to all businesses which employ a worker or workers in Japan with limited exceptions.

National and local government employees (except for local government part-time employees engaged in blue-collar work) and mariners are not covered by the WACIL, and other equivalent schemes are set up for those workers. The WACIL doesn't apply obligatorily to one-person operation businesses, which are categorized into agriculture, forestry or fishery industries, and which have less than 5 workers. (Those workers can be covered by the WACIL by taking necessary procedures.) Moreover, a special system is established to permit employers of small/medium businesses, self-employed who don't have workers and workers assigned to overseas jobs, to join the insurance scheme.

At present, the number of covered businesses by the WACIL is approximately 2.7 million, and the number of covered workers is approximately 48.5 million.

Under the WACIL, all workers are treated without discrimination in types of employment, nationalities, etc. So, a temporary/casual worker, (so-called "illegal") migrant worker, etc. can receive the equivalent compensation benefits to those to a regular/permanent worker.

Even if a worker suffers from an occupational disease after separation or retirement from the job in which he/she had been exposed to a hazard, he/she can receive compensation benefits.

And even if, an employer hasn't paid insurance premium, a worker can receive compensation benefits. (The government shall collect insurance premiums for the past period from an employer, separately from paying compensation benefits to a worker.) Employers are required to pay insurance premiums, which are calculated by multiplying total payable wages by the insurance rate determined for each business category (now 5/1,000-129/1,000).

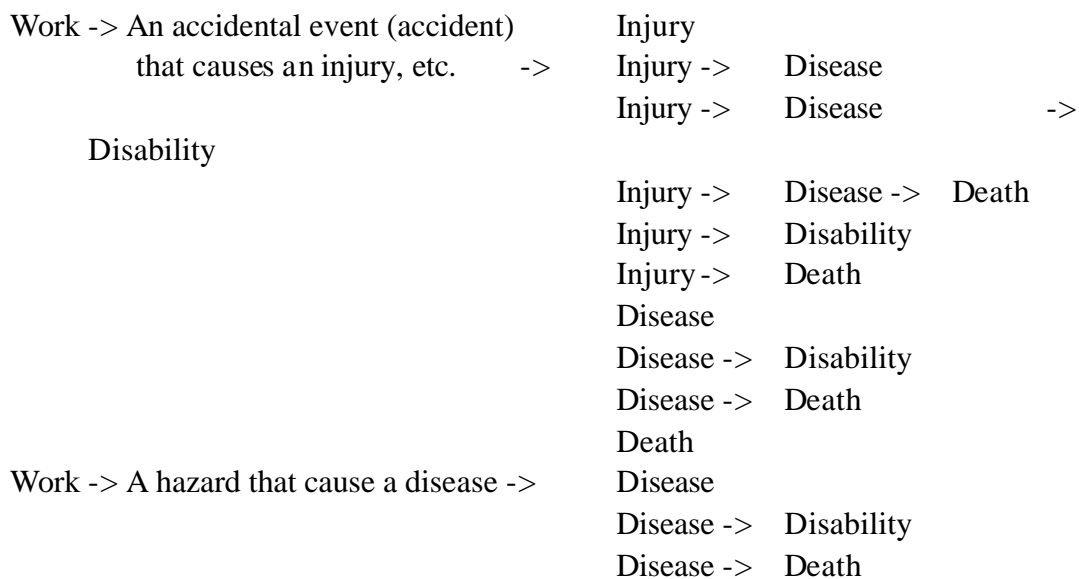
Summary of the WACIL

The purpose of the WACIL is "to grant necessary insurance benefits to workers in order to give them prompt and equitable protection against injury, disease, disability or death

resulting from an occupational (work-related) cause or commutation, and to promote rehabilitation of workers who have suffered injury, or contracted a disease, resulting from an occupational cause or commutation, to assist such workers and their survivors and to secure proper working conditions, etc., and thereby to contribute to the promotion of the welfare of workers” (Article 1).

Workers' accidents are divided into "occupational accidents" and "commutation accidents". Commutation accidents have been covered by the WACIL since 1973.

On the other hand, correlations between "injury", "disease", "disability" and "death" are conceptually explained as the below by the government;



There are now 8 types of insurance benefits;

- (1) Medical Compensation Benefit,
- (2) Absence Compensation Benefit,
- (3) Disability Compensation Benefit,
- (4) Survivors Compensation Benefit,
- (5) Funeral Expenses,
- (6) Injury and Disease Compensation Pension (since 1977, partially since 1960),
- (7) Nursing Care Compensation Benefit (since 1996), and
- (8) Secondary Health Examination Benefit (since 2001).

The types and contents of insurance benefits by the WACIL have been improved step by step, becoming better than compensations set by the Labour Standards Law.

Claim for Recognition of Occupational Accident

In order to receive an insurance benefit, a suffering worker (victim) or his/her survivor

must file a claim (submit a prescribed application form for the compensation benefit) to the competent Labour Standards Inspection Office (LSIO) at each time. (There are 343 LSIO all over Japan.)

The chief of the LSIO shall decide whether (whole or a part of) the compensation benefit should be granted to the worker/survivor or not, after necessary investigation/examination.

The victim/survivor him/herself, the employer, fellow workers and victim's doctor will be heard and be asked to submit necessary data, information, etc. by the LSIO as a part of the investigation. Then the LSIO may ask an opinion from their medical advisor(s), and if necessary consult with the Prefectural Labour Office and the MHLW.

Article 23-2 of the Enforcement Regulations of the WACIL prescribes that the employer of a worker can submit its opinion about the claim to the LSIO. This clause was introduced in 1987 following/against the employers' request to introduce a system in which an employer can file a claim to make re-examination of a decision by the LSIO when an employer is dissatisfied with it.

As against, in this procedure, it is not assumed that an attorney, trade union, OSH NPO such as us (COSH), etc. involve in the procedures in the Law and Regulations. In reality we can influence (at least in partially) the procedure by submitting relevant information/data/opinion, by directly negotiation with officials of the LSIO, and by other approaches.

The standard time periods for administrative procedures are set up by the Administrative Procedures Law enacted in 1994. Generally it is 1 month, but it is 6 months for recognition of an occupational diseases. And no-time limit is set up for recognition of diseases not specified in the list of occupational diseases. Moreover, those time periods mean only that the LSIO should make an effort to decide within the time periods wherever possible (not mandatory).

In reality this law has facilitated to shorten such periods, but even now it takes more than 1 year in cases of diseases due to overwork, etc.

Appeal and Litigation

If a victim/survivor is dissatisfied with a decision by the LSIO, he/she can appeal to a Workers' Accident Compensation Insurance Referee to make re-examination of the decision, and when dissatisfied with the decision thus given, can appeal to the Labour Insurance Review Panel to make third-examination.

The Referees are assigned to 47 Prefectural Labour Office, and the Panel is set up at the level of the Ministry of Health, Labour and Welfare (MHLW). the Counsellors

representative of workers and employers respectively are assigned to the Panel, and they can (only) submit their opinions about the claim to the Panel.

If a victim/survivor dissatisfied with a decision of the Panel, then he/she can bring a case before the court against the chief of the LSIO for the revocation of the decision.

If the Referee/Panel doesn't make a decision within 3 months after making an appeal, a victim/survivor can go forward to the next step (third-examination/litigation). This system was introduced in 1996. Before then, there were cases taking 10 years or more to reach a resolution from the starting point.

On the other hand, as the compensation benefits by the WACIL are minimum standards and don't cover full damages by the worker's accident, a victim/survivor even who has received the insurance benefits can claim additional compensation against the employer.

But the number of civil litigation cases for workers' compensation claim brought by victims/survivors was only 262 in 2001. This is extremely low level in comparison with those in case of general commutation accidents and medical accidents. A chance of winning litigations is also low. Litigations are still excessive burden for a victim/survivor in terms of cost and time, appointment of proper attorney, burden of proof, cultural, social and other factors.

As to additional compensation, a substantial number of large/medium enterprises have established the rules, which apply a worker's accident when the case was recognised by the LSIO as eligible for compensation benefits. This maybe an advantage that the Japanese trade union movement has achieved since the 1970s.

Notification and Statistics

Article 97 of the Regulations on Occupational Safety and Health prescribes that "when worker(s) have been killed or absent from the workplace for more than 3 days due to occupational accident, the employer shall present a "Notification of Workers' Death, Injury and Disease" to the competent LSIO".

But this notification has no linkage with compensation for worker/survivor(s).

As well, a doctor who diagnoses a injury/disease which could be of occupational origin is not obliged to notify the fact to the LSIO or other body.

So, 2 different data on workers' accidents (deaths, injuries and diseases) are available in Japan;

- Data based on notification by employers under the duty of the OSH Law

- Data based on compensation by the Workers' Accident Compensation Insurance scheme

There are some points of difference between those 2 data;

<Time-lag factor>

- The former counts a case at the time the LSIO was notified by an employer (calendar year based), as against the later counts at the time the LSIO decided to grant compensation benefit for a case applied by a victim/survivor (fiscal year based),

<Factors to increase the latter than the former>

- The later includes a case an employer hasn't notified it because an employer hasn't recognised as an occupational accident, unknown the obligation to notify, neglected the obligation, etc.,
- The later includes all cases without reference to whether absence is required or not, as against the former sums up only cases requiring more than 3 days absence,
- The later includes a case occurred after separation or retirement from the job in which a worker had been exposed to a hazard, as against the former doesn't include those cases,
- The later includes cases of commutation accidents, cases of special members of the Workers' Accident Compensation Insurance (self-employed workers and employers of small enterprises, etc.), as against the former doesn't include those cases.

<Factors to increase the former than the latter>

- The former includes a case may not be compensated eventually (because a worker/survivor won't file a claim, or the LSIO won't recognise it as a worker's accident despite of an employer considered so, etc.), as against the later includes only a case the LSIO decided as a worker's accident.

In both statistics, very limited data have been only available in Japan. A report of the Governmental Administrative Audit recommended the MHLW to improve the availability of more detail financial picture of the Workers' Compensation Insurance in 1999. And we have been exploring available data by using the Information Disclosure Law which comes into force in 2001. But effective improvements have not been made yet.

For example, the numbers of claims and of not-compensated cases are available for only a few diseases, and the numbers by sex, age, job, length of medical treatment/absence, amount of payments, etc. are almost not available.

Situation of Workers' Accidents

Though occupational accidents have been decreasing in a long run, there are still

considerable cases annually.

Annual number of fatal accidents peaked at 6,712 in 1961 and now 1,790 in 2001 which has decreased by 26.7% of the peak record.

We can identify 3 phases;

phase1: state of plateau, 1960-70,
phase2: cut by half period, 1970-80, and
phase3: stagnation period, 1980-now.

I think the statistics for deaths may be more likely to reflect the real situation, because it is relatively difficult to be concealed. I can say that we succeeded to cut by half the fatal accidents for only 10 years (1970-80), but then haven't been able to achieve a significant reduction of the fatal accidents in Japan.

The Occupational Safety and Health Law was enacted in 1972, as I mentioned above. It is a fact that relevant regulations have been strengthened under this Law. But it is designed to ensure OSH only by the combination of specific obligations against employers and the governmental enforcement (labour inspections). It adopts typical "rules-based approach", and isn't considering workers as the essential players in OSH. I think that we have been coming up against a brick wall because of this weak point.

We are calling for fundamental changes of OSH scheme as adopting the "enabling approach". Here, I am thinking that the term of "enabling" is same with "empowerment" - empowerment workers and victims is the key word.

Apart from that, annual number of casualties (deaths, injuries and diseases) also reached 481,686 in 1961 and now 133,598 in 2001. We can see the similar trend in the case of occupational deaths. Please note here, concerning injuries and diseases, only cases required an absence of 8 days or more are counted in the statistics until 1972, and then it has been expanded to cases required an absence of 4 days or more.

It maybe possible to use the number of new receivers of workers' compensation benefits as a provisional indicator of total workers' accidents. The number reached at 1,716,678 in 1968 and now 603,101 in 2000 which has decreased by 35.1% of the peak record. The number of compensated occupational diseases reached at 19,013 in 1980 and now 8,741 in 2001 which has decreased by 50.0% of the peak period. But these numbers have been partially influenced by improvements in system and administration of the workers' compensation insurance scheme and other factors.

In a case of injury, key points for the investigations by the LSIO are whether a worker experienced an accident or not, and whether the accident caused such injury or not, mainly by hearing the worker, employer, colleagues, victim's physician, etc.

It seems that there is relatively less trouble in cases of injuries than those of diseases. But in fact, there are troubles for which we named "hiding of accidents", etc.

Recognition of Occupational Diseases

Japanese governmental list of occupational disease(OD)s is provided as Table 2 of the Enforcement Regulations of the Labour Standards Law. This list has 9 major categories.

No.1 category is assigned to "diseases resulting from occupational injuries". This accounts for 50-70% of all compensated occupational diseases. And about 70-80% of total No.1 category disease (compensated) cases are "low-back pain" (such as acute low-back pain, low-back sprain, acute lumbar intervertebral disk hernia, etc.) resulting from occupational injuries. (In 2000, 7,628 cases of total 9,485 cases, 80.4%) In a case of No.1 category OD, key points for the investigations by the LSIO are almost same in a case of occupational injury.

No.2-9 category diseases are allocated to other (narrow) ODs;

No.2 diseases due to physical factors (such as radiation disorders other than cancer, diver's disease, deafness (hearing disorder), etc.),

No.3 diseases caused by a form of jobs which involve extreme physical tension (such as chronic low-back pain, vibration disease, neck-shoulder-arm disorder, etc.),

No.4 diseases due to chemical substances other than cancer,

No.5 pneumoconiosis and its complication diseases,

No.6 diseases due to pathogens such as bacteria and viruses,

No.7 occupational cancer

No.8 category is called an "Additory Provision". The Minister of Health, Labour and Welfare can add an OD in this category without an amendment of the Regulations. Only a few diseases have been added as No.8 category diseases.

No.9 category is called a "Comprehensive Relief Provision", and prescribes that "other diseases which are apparently caused by the work". Each of No.2-7 categories has a similar sub-category as a "Comprehensive Relief Provision".

No.1-9 categories other than the "Comprehensive Relief Provisions" are called "Specifically Enumerated (Listed) Provisions". So, even if a disease does not apply to any "Specifically Enumerated (Listed) Provision", such disease can be recognized as an OD under "Comprehensive Relief Provisions".

Japan's list of ODs adopts "Open" system not "Restrictive" style.

For a disease of "Specifically Enumerated (Listed) Provision", if all of the below requirements are satisfied, it shall be considered as an OD as long as there is no contrary evidence.

- (1) A hazard prescribed in the list of ODs exists in the work place.
- (2) The condition of exposure to such hazard is recognized to be enough to cause a disease prescribed in the list from the view points of dose, period and form of exposure, etc.
- (3) The appearance and progress of such disease are consistent with medical knowledge on the health effect due to such hazard.

For a disease of "Comprehensive Relief Provision", the causal association between a disease and work is needed to be proved on case by case basis. The government explain the reason that the evaluation as an OD is yet not enough.

Recognition criteria have been set up for some diseases as administrative notices of the chief of Labour Standards Department of MHLW. For those diseases, if a disease satisfies the relevant recognition criteria, it should be recognized as an OD.

But, for all cases, a victim/survivor must shoulder the burden of proof.

Regarding the number of annual occupational diseases, we can see interesting features in comparison with the notification statistics and compensation statistics.

Total numbers of both statistics are almost same level. And this is also true of pneumoconiosis and its complication diseases (No.5).

But the number of compensation exceeds the number of notification for many categories except for 2 (sub) categories. Even for occupational cancers (No.7), the number of compensation is more than 10 times of the number of notification. I think the main reason would be that these diseases often appear after separation or retirement from the job in which a worker had been exposed to the hazards.

2 exceptions are diseases resulting from injuries (No.1) in which "acute" low-back pains are the majority and "chronic" low-back pains (a sub-category of No.3). For other sub-categories of No.3, such as neck-shoulder-arm syndromes and vibration diseases (RSIs), the number of compensation extremely exceeds the number of notification. It maybe explained by employers' denials for RSIs, type of employment that almost are casual workers (for vibration diseases among forest workers), and other factors.

For "acute" and "chronic" low-back pains, I am thinking that there are no small number of victims who didn't file a claim despite of the employer considered it as an

occupational disease and notified to the LSIO. And in some cases the LSIO didn't recognise it as an occupational disease. Data for in-depth analysis is not available. We have been calling for the correction of such situation.

In addition, the rate of compensated occupational diseases per 100,000 workers in Japan is at the lowest level compared with European countries. This would not mean the lower incidence in reality, and could mean there are weaknesses in the system and operations of the Workers' Accident Compensation Insurance.

Recent progresses

Newly setting up of recognition guidelines for mental disorders including KAROJISATSU (suicide due to over work) in 1999.

Substantial relaxation of recognition criteria for KAROSHI (cerebro-cardio diseases) in 2001.

Official recognition of lung cancer as a complication of pneumoconiosis in 2003.

Review of recognition criteria for asbestos-related diseases (now under review).

Victims' Organizations

There are 2 national association of victims for pneumoconiosis and spinal cord injuries. Each of them has more than 5,000 members.

- National association of pneumoconiosis victims
- National association of spinal cord injury victims

There are some local, offending enterprises or medical institution based victims' groups.

- Chromium poisoning victims who had worked for the Nippon Chemical Industrial Co.,Ltd.
- Arsenic poisoning victims who had worked for mines the Sumitomo Metal Mining Co.,Ltd. Owns

Some trade unions, such as All Japan Forest Workers' Union, All Japan Dock Workers' Union, National Federation of Construction Workers' Unions, etc., are active to organize victim workers and to detect victims among their members.

Presentation by Dr. Voravidh Charoenlert, Thailand

In the general picture and present trend of Industrial restructuring, the focus is on making the economy more competitive. The trend is to go more towards flexibilization which is in 2 ways- one is wage flexibility and the second is employment flexibility. Wage flexibility is more or less deregulated without much resistance from labour groups. We have a tripartite structure, but the say of the central committee decided is fixed for all levels- provincial. There is wage betting in collusion with authorities and employers. The result of this wage flexibility is for survival of family, many workers work overtime and so under present industrial restructuring Thai workers work long hrs, 6-7 days long hrs. This leads to higher risk of injuries and also low OHS measures.

After the economic crisis in 1998, the labour law allows employers to close factory and pay only 50 % of wages. We know that many factories are doing this and workers move to other factories. We found 60% of such workers have found work elsewhere as subcontracted workers with no safety and security. So there is no OHS protection. OHS is serious if there is subcontracting and home based workers work with chemicals. The question of organizing workers and getting trade unions to fight and not depend on the tripartite structure only also needs to be addressed.

Presentation by Ms. Choi Eun Hee from Korea from Solidarity for Workers Health.

Choi: " I want to explain our situation, and whole process of compensation in Korea. The Government monitors the workers access to compensation. The law was enacted in 1968. At the time of enactment, it was for workplaces with workers over more than 500 workers. But now legally it applies to all enterprises. But the actual situation is different, among contingent workers, 70 % are not compensated. So even after legal coverage they are not actually compensated. 40 % workers are not covered – these are informal workers, construction and self employed workers. Recently 2 workers committed suicide since they couldn't get compensation or treatment. One of them was construction worker for 7 years. The law covers only if the investment is more than 10,000\$. After 2 months of fighting the case, he came to know that he couldn't get compensation. This is not individual problem but the legal system killed him.

Our activities concerning compensation are– after years of individual compensation struggle, we launched a coalition for reforming accident insurance 2 years ago. This coalition is made of many labour groups. We demand

- 1- Cover all workers under legal insurance and coverage. Workers accident insurance system should cover all workers
- 2- Change existing system of compensation to workers. Responsibility of proving that the disease was contracted or injury is due to work- it should be changed since worker has limited knowledge of his rights and the legal provisions.

- 3- Health care system- Treatment first, change the onus of causation.
- 4- Enact the right to work of injured workers. Korean law .enables the retrenchment of injured workers.

Presentation by Jeremy Lei Manchao from Macau Federation of Trade Union

Brief Introduction of the Law of Work Accidents and Professional Diseases of SAR, Macao Ung Wai keong*

Introduction

Owing to the frequent occurrence of the work accidents and occupational diseases in Macao, and compliance of the relevant Convention of ILO, the Macao Government established the no 40/94/M law named “Work accidents and Professional diseases”, which determine the norm of legal compensation for the loss of life or working capacity of the workers due to the work accidents or professional diseases.

There are some exceptions according to the law:

1. The injury is occurred purposefully by the workers, or not compliance of the safe rules laid down by the employers;
2. The work accident is caused completely by the negligence of the workers;
3. The work accident is caused by the permanent or temporary loss of reason of the workers;
4. The work accident cannot be expected or avoided. The appearance of such accident is not caused purposefully by people, working or environmental condition;
5. The work accident is caused by the change of public order.

According to the requirement of the Law, all employers have the responsibility to purchase labour insurance for their workers to make sure all workers having the legal protection when they suffer from the work accident unfortunately.

Definition and coverage

Working accident: refer to the injury occurred in the place of work and within the working hour, which cause directly or indirectly the permanent incapacity or death results of the workers. According to the Law, the injuries incurred in the following cases are also considered as work accident and should be entitled to the compensation:

1. The injury is caused during the execution of the mission determined by the employers, even though it is not occurred in the place of work or within the

- working hour;
2. Voluntary working for the employer, which bring profit to the company;
 3. Taking the transportation service provided by the employer to or from the place of work.
 4. Going to the place to receive the salary.

Occupational diseases : diseases shown in the list of the Law, which is induced by the workers owing to working for the employer under the potential dangerous industrial environment for a period of time.

Assessment and procedure

When the worker suffers from a work accident or has proved to have occupational diseases, the employer has to send him to the nearest hospital immediately. If the employer is out of the place of work where the worker encounters accident, the worker or the member of his family should inform the employer or his representative within 24 hours orally or by written document. After the employer is informed, he should report to the insurance company all the details about the accident and provide all evidence at the same time. The insurance company will then collect all information and ascertain whether it is a real accident and when it is ensured, the insurance will pay the victim compensation according to the terms of the policy.

When the worker is sent to the hospital, the doctor should prepare a report about which part of the body of the injured worker is hurt, the degree of injury, the date in and out the hospital, temporary or permanent loss of working capacity, etc. A copy of this report will sent to the insurance company, which is treated as a principal evidence to the compensation the insurance company will give to the injured.

Besides, the employer should inform the accident to the Labour Department, the Court and the Social Security Fund, which will provide suitable assistance or financial help to the injured and his family.

Compensation

When it is proved as a real accident, the employers need not to pay but the insurance company has to compensate the injured or the family of the deceased employee according to the terms of the policy. There are two types of compensation: medical expenses and cash payment.

1. Medical expenses :

The objective of medical outlay is to help the injured recovery, restore working capacity, which includes medical treatment, nursery care, compulsory operations, medicine,

* Vice-president of Association of Social Security of Macao

inpatient fee, medical equipments, and transportation.

The maximum of the medical expenses is 1) less than three million Macao dollars (about 0.375 million US dollars) for each victim; 2) if treatment outside the health establishments, not more than two hundred and fifty dollars (about thirty US dollars) per diem, which includes medical treatment and medicine expenses.

2. Cash compensation:

There are two situations : compensation in fatal cases and compensation in cases of total or partial incapacity.

2.1 Compensation in fatal cases:

The member of family of the victim has the right to receive the following compensation. The amount is based on the age of the victim.

Age of deceased employee	Amount of compensation
Under 25	120*monthly basic earnings
25 to under 35	108*monthly basic earnings
35 to under 45	96*monthly basic earnings
45 to under 56	84*monthly basic earnings
56 or above	72*monthly basic earnings

Basic earnings here mean cash remuneration, remuneration by kind and regular subsidies, but not include eventual OT pay, bonus, irregular subsidies, travelling allowance, and social security contribution by the employer.

The maximum of compensation is 0.4 million Macao dollars and the minimum is 0.12 million.

The coverage of the family member of the victim and the distribution of the compensation among the member is determined by Law.

Besides, the family of the deceased employee is entitled to receive funeral subsidy not exceeding 30 days of daily basic earnings, which cannot be less than three thousand and three hundred Macao dollars but not more than thirteen thousand dollars. If the deceased employee died outside Macao, the subsidy will be double.

2.2 Compensation in cases of permanent total incapacity

Age of injured employee	Amount of compensation
Under 25	132*monthly basic earnings
25 to under 35	120*monthly basic earnings
35 to under 45	108*monthly basic earnings
45 to under 56	96*monthly basic earnings

56 or above	84*monthly basic earnings
-------------	---------------------------

2.3 Compensation in cases of permanent partial incapacity

The amount of compensation is a certain percentage of the amount of compensation in cases of permanent total incapacity. The percentage is determined by the Law.

The maximum of the compensation of item 2.2 is 0.5 million but cannot be less than one hundred sixty five thousand dollars. The maximum of item 2.3 is also 0.5 million.

2.4 Compensation in cases of temporary total incapacity

The injured is entitled to receive two third of his basic earnings.

2.5 Compensation in cases of temporary partial incapacity

The injured is entitled to receive compensation which equal to loss of two third of his working capacity.

If the employee's temporary incapacity lasts more than 24 months, he will be deemed as permanent incapacity by the Law. The doctor in charge should evaluate the degree of incapacity of the employee and prepare a report for the purpose of applying compensation of permanent incapacity.

Analysis of work accidents in recent years

According to the statistics provided by the Labour Department, the number of work accidents cannot be regarded as serious for years from 1996 to the first half of 2002. The number of cases went to the peak in 1996, registering 3747 work accidents. The bottom was in 1999, only 3218 work accidents was registered. Among the cases, most of them were not serious, taking those years from 1998 to 2001 as example, fatal cases were only 13, 7, 16 and 6. The number of cases of permanent total incapacity was 13, 7, 16 and 6 for 1998, 1999, 2000 and 2001 respectively. The percentage of the serious cases was small when compared with the total cases. However, the number of serious cases for the first half of 2002 increased when compared with the same period of previous year. The number of fatal cases was 4 or equal to the number of previous year but the number of cases of permanent total incapacity 7, or 75% growth which was comparatively high in terms of percentage. So, the risk of work accidents cannot be overlooked.

Based on the figures shown in the table below, the number of work accidents ranked top in Manufacturing, the average number for years from 1998 to 2001 was 841. The next was Hotels and Restaurants and the average number was 722. The third was Community, Social and Personal Services and the average number was 619. The fourth was Wholesales, Retails and Repair and the average number was 489. The fifth was

Construction and the average number was 373. Although the number of work accidents is not so many as we usually think, the serious work accidents seemed to be concentrated in Construction, taking the first half of 2002 as a example, half of 4 fatal cases was construction workers. The weight of number of work accidents of the above five industries was over 86% out of the total.

Economic Activities	Number of work accidents				
	1998	1999	2000	2001	2002
Agriculture, Hunting and Forest	9	1	-	3	n.a.
Manufacturing	906	785	881	792	381
Electricity, Water and Gas	19	14	11	27	n.a.
Construction	465	346	323	356	116
Wholesales, Retails and Repair	490	494	470	502	248
Hotels and Restaurants	717	638	766	767	426
Transport, Storage and Communications	159	182	268	270	103
Banks and Insurance	24	26	27	33	n.a.
Real Estate, Renting and Business Service	55	61	111	136	61
Public Administration and Soc. Security	14	10	23	40	n.a.
Education	58	72	87	71	n.a.
Health and Social Welfare	25	19	20	28	n.a.
Community, Social and Personal Services	717	556	600	603	381
Family with domestic workers	23	14	20	23	n.a.
Total	3681	3218	3607	3651	1840

Source : The Labour Department of Macao

Regarding to the reasons of work accidents, almost half of them was “over strength or twist” and “hurt by pressure or a pointed object”. The part of injury was hands, representing about 35 % of the total.

According to the figures of the Labour Department, the number of cases of occupational diseases was very few, only registered one case in 1998. Perhaps it is very difficult to verify that incapability was mainly due to occupational reason.

In relation to the premium and claim of labour insurance, based on the figures provided by the Macao Monetary Authority, the figures for the recent years were shown in the following table:

1000 Macao dollar

	1998	1999	2000	2001
Premium	57,374	52,927	48,298	49,305
Claim	23,073	20,635	25,170	24,667

Source : Macao Monetary Authority

The figures indicated that the operation of labour insurance was normal. The percentage of claim over premium was relatively low might imply that some injured workers were not successful to get claim due to non availability of sufficient evidence.

Some comments

1. High premium for the labour insurance: The premium rates were determined by Macao Government in August, 14,1995 through an administration order No. 236/95/M, which specified the premium rate for each kind of economic activity. Most of them are over 1%, the highest up to 41.7%. Though the insurance companies will give discount to those clients who had no or few work accidents in their records. As a whole, the premium rates are relatively high, which should be adjusted down provided that this kind of insurance is generally profitable in most insurance companies.
2. Raising the protection level: The amount of compensation should not be considered low when compared with the level of Hong Kong and Taiwan. However, the maximum of the amount of compensation for cases of permanent total incapacity and fatal cases are 0.5 and 0.4million Macao dollars respectively, and the minimum are only one hundred sixty five thousand and one hundred twenty thousand Macao dollars. Obviously it is not enough according to the living standard of Macao. If the minimum monthly expenditure for a 4 members family is four thousand, the minimum compensation for cases of permanent total incapacity can only lasts 41 months.
3. Compensation by way of annuity: The compensation is paid by way of a lump sum amount in one time. If the injured is the main source of income for the family, the compensation can only support the family for four to five years. Although the Social Security Fund can help this family by way of handicap subsidy provided that the injured had contributed the Fund for more than five years, it means that the young workers with less than five years working time are out of protection by Social Security Fund so that change of payment mechanism of compensation from a lump sum to annuity should be considered by Government.
4. Enlargement of coverage of protection: The Law does not protect the self-employed persons. However, they also take risk to be injured in a work accident. So, they should be included in the coverage of protection by Law.

SOCIAL SECURITY FOR WORKERS IN INDIA:SOME GROUND REALITIES PERTAINING OHS

Presentation by Mr. Jagdish Patel, People's Training Research Center (PTRC), India

Law provides Social security (pertaining health & safety at work) to the workers in few sectors of economy in India like mining, manufacturing and service sector. Most workers enjoying the benefits are public sector workers. Not all the workers in these industries in private sectors enjoy the benefits. There are laws for working conditions for some sectors like Shop & Establishment Act but the Act do not have specific provisions for protection of health & safety at work.

This paper is based on our own experience of working with workers on OHS issue. The experiences are limited for geographical area. It presents a representative picture. Situation in other parts of country may be even worse but possibility of better picture is beyond imagination.

Law for compensation:

Workmen Compensation Act, 1923 provides right to compensation to the workers working in any sector of economy – either in organized sector or unorganized sector. THE list of workers who can claim compensation under this Act is given in the second schedule of the Act. The Second Labour Commission appointed by Govt. of India has recommended extending this list. Construction workers or workers in agriculture sector can apply for compensation under this Act. Definition of workman is quite broad. There is provision for temporary disablement as well as permanent partial or total permanent disablement or death caused in course and out of employment. The compensation is provided to compensate loss in earning capacity.

The report of the Second Labour Commission notes: "...The method of claiming compensation for disability is so long & tortuous that one rarely gets compensation to which one is entitled by law....often workers die without receiving compensation..." As a remedy it has recommended to apply a modified ESI Scheme (With limited contribution and limited benefits) to workers in the organized sector.

Number of fatal accidents in registered industries in year 97, 98 & 99 were respectively 901,862 & 960. These figures do not include fatal accidents in mines, railways and ports. Statistics of accidents in other sectors are not collected by Govt in any law. If we ALL occupational accidents are notified, who are eligible to claim compensation under the W. C. Act, the number would be at least three times. Now, look at the number of workers who received compensation in these years in Table:1 below. These are official figures published by Government.

Year	Fatal	Permanent Disability	Temporary Disability
1997	947	1391	2117
1998	896	1231	42,598
1999	1023	1557	8747

As shown above, very few workers get compensation because of practical difficulties. We shall see few case studies to understand this;

🚩 Jitendra Mahato, a migrant worker was working in small engineering unit in Baroda. He met with mechanical injury amputating two of his fingers. It was a crush injury. He was admitted in nearby private hospital. After few days he was discharged. When he asked for disability certificate the doctor refused. When he resumed duty on 22-3-96, he asked for compensation. When he persuaded, he was fired on 4-4-96. The worker contacted a lawyer and sent legal notice to the employer on 10-4-96 for compensation. Later claim was filed in local labour court. i.e. with compensation commissioner. On 16-12-97 the Court passed order in favour of the worker. Employer was ordered to pay Rs.52,193 towards compensation, fine, expenses & interest. When worker contacted the employer for the amount he was kicked out and was told that come what may, we are not going to pay you the amount. The lawyer then got the certificates issued by the Court and presented it to the District Collector for collecting the sum. They waited for quite long but there was no movement. During this time we came to know about this case and decided to help. We presented a memorandum to the Collector on 21-2-2000. He assured quick action. We were advised to meet officer called Mamlatdar, who is directly responsible for collection. We met him. He too assured us quick action. For next 2 months nothing happened. So we sent press-note with photograph to the leading Newspaper. Times Of India published the story with photograph. Through the reporter, Mamlatdar sent us invitation. When we went he once again assured action and reported what has happened till then. For next 6 months we followed up with his office continuously. Every time it was next week. Wait was making us nervous. We decided to approach High Court. We met a lawyer friend and explained him the situation. We paid him part of the initial fees and part was paid by the worker. He filed petition in January 2001. The Court disposed the petition in December 2002, directing the Collector office to get the amount as soon as possible. At one point of time the employer told the High Court that since he is not able to pay the amount he be imprisoned! Now the ball was again in the court of Collector. The lawyer and worker kept on follow-up. Finally, in April 2003 first instalment of Rs.10,000 has been paid to the worker, after 7 years of struggle. This amount is only 5th part of the original order. We do not know whether the remaining amount shall come or not and if so, when.

Had the lawyer not been so sincere, worker would have left half way. The victim also is

very committed in this case. In Baroda alone the Trade Unions have won the claims worth millions in their favour but have not been realized. Few Unions approach High Court as the worker can not afford to pay for the expenses. Unions too, do not invest.

✚ In another case, a worker working in a medium scale aluminium company approached us. He had met with injury while working on hydraulic press. We collected necessary information and prepared notice. When we invited him to sign the application, he did not turn up. When we approached him, he said he is not interested. This company is notorious for its safety record. Large numbers of workers injure themselves in Press machines. Most workers employed there are contract workers. They are threatened to be kicked out if claim compensation. Once a plastic surgeon in public hospital requested us to do something to reduce accidents in this company. But, as workers themselves do not are to make a claim, we are helpless. There is a Union but is not effective.

✚ Prahlad Mukadam, a worker working in a small unit in Baroda met with an accident when he was sent to another company to get supply in company's vehicle. He was crushed between company vehicle and logs stored in another company. He injured his legs. He was taken to his company. Employer admitted him in a private hospital and paid salary for 4 months. There after he was asked to resume duty but doctor did not issue fitness certificate. He then contacted us for compensation. We advised him to wait till treatment is over. When treatment was over we asked him to get disability certificate and offered to help. Then for months he did not turn up. When he again contacted us we reminded him to bring disability certificate and informed him about the court fee. He did not contact us then. Interesting part of the story is, though the worker was working in unit which is covered by ESI Act, this worker was not covered by the employer. As per the provision of the Act, in such cases worker is bound to get benefits under the Act.

✚ A diamond worker, Jagdish Sindha was enjoying holiday with friends, when local wireman came there and sought help in laying electric line. They were assured Rs.50/- for the 2-3 hour work. They agreed and went with him. They were asked to clear a branch of a tree from where the line had to pass. While cutting the branch, Jagdish fell from the tree. He was taken to the hospital by the family. He died after a month during treatment. The family spent Rs.95,000 by mortgaging the land they owned. When we came to know about the incident we advised them about compensation. They agreed and we sent notice to the concerned officer. Then the family did not contact us , may be for want of expense for court fee etc.

✚ Mehboob Rheman Sheikh was a welder and had come to Gujarat from Bangal. He was working for one of the contractors in Gandhar project of Indian Petrochemicals Ltd. (IPCL). IPCL is a public sector giant petrochemical company. Recently it has been partly privatized. On 29-12-95 while welding at a height of 20-22 ft, he fell down from ladder. The ladder was not tied at the top and it

overturned. He injured his back. He was taken to hospital where he was pressurized to get 'voluntary' discharge, which he refused. Ultimately he was dumped at a small tin shed at the site. When we visited him, it was May and there was no electricity and hence no fan, no radio or TV. He did not do anything even to read. He was sleeping on floor. The shed had no facility for toilet. The doctor had advised him Gujarati not to squat. But he had to go for toilet in open where he had to squat. We introduced him to a local lawyer. There was no certainty whether how long the Company would continue facility of the tin shed. The place is quite away from us to monitor the progress of the claim. Later we heard that the lawyer did not remain faithful to him.

AGATE INDUSTRY IN KHAMBHAT

Ornaments and other decorative and showcase items are being manufactured from Agate and other stones in Khambhat city and surrounding villages. It is believed that this business is going on in this region since last 2500 years. Excavations in nearby Nagara village by archaeologists have put forward this thesis.

Manufacturing process include various steps like heat treatment, breaking the stones into small pieces, size reduction in ball mill, giving shape on grinding wheels, polishing for lustre, making hole and prepare final product for sale. All these are carried out by different set of people known by 'fodya', ghasiya' etc.

Investment is mainly done by the traders who own show room in city of Khambhat. Most traders export their products. They find big market in middle east, African countries, Europe and USA. Traders buy different types of stones from different parts of the country. Then they give out different jobs to different people. Some traders get the preliminary jobs done by themselves in their premises while rest of the activities is done by the workers or middleman in their premises. Most middlemen also put in physical labour and they come from same social-economical class. Most middlemen employ 5-10 workers. Payment to the workers in all stages is on piece rate. Each stake holder in the business has more than one business partners and hence, barring few, well defined employer-employee relationship is absent.

Once upon a time it was a pure handicraft and an art but after introduction of electricity, pace of work increased. Grinding the stone on grinding (emery) wheels driven by electricity at a speed of 2-3,000 RPM generates large amount of dust. The generated dust contain fine dust of the size 2-5 micron size which, when inhaled reaches alveoli of lungs. The dust contains more than 90% of free silica. Thus Silica particles get settled in lungs causing Silicosis-a deadly disease. Large number of workers, men and women, till date have died of Silicosis. Number of families has been completely wiped off. Large numbers of children have been left orphans. The widows have their own specific problems of livelihood. Elders' loss support when youngsters in the family die of silicosis, when they need the support most. The youngsters in the age group of marrying

do not find brides\grooms. Marriages break when one of the couple gets Silicosis. Society is paying high price. This is one of the most tragic stories of 'development' in Gujarat.

It takes 5 year to 10 years to get Silicosis. It is only now that some people know the difference between TB and Silicosis. TB is curable while Silicosis is incurable. Though Silicosis is a compensable disease under Workman Compensation Act, there is not a single case of claim, due to complex social situation. And oppressive nature of the industry. Once the worker gets the disease his condition becomes pitiable. In many cases there is no one to look after and one is compelled to work till death, lest he & his family would not be able to get evening meal. Large numbers of women work as grinders and hence death rate among women is also high.

Government has taken insurance for the workers in unorganized sector, but that list do not include Agate workers. Secondly, the insurance do not cover occupational diseases.

ESI Act:

We have another Act for Social security called Employees State Insurance Act, 1948. This is a contributory scheme where workers pay 1.75% and employers pay 4.75 % of the total wage bill. This is compulsory for the units employing 10 or more workers, if the unit is situated in area which is notified for coverage under the Act. All employees receiving salary up to Rs.6500/- are covered by the Act. Employer has to pay contribution even for contract workers. The benefits offered are as under:

- Medical Benefit. The Scheme has its own dispensaries and hospitals. Worker (IP) and his family can avail free treatment.
- Sickness benefit. If IP can not attend duty because of illness, one can avail this benefit, under which he is entitled for 50% of his wages.
- Disablement Benefit. If IP meets with accident in course of and out of employment, S\he will be paid 75 % of the wages toll treatment and there after the disablement.
- Dependent Benefit: If IP dies of occupational accident or disease his\her dependents are entitled to compensation.
- Extended Sickness benefit. If IP is suffering from a disease listed, S\he can avail sickness benefit beyond normal limit of 91 days up to 2 years.
- Funeral Benefit. If & when Insured Person dies of any reason, his\her dependents can avail this benefit which is Rs.2,000.

All above mentioned benefits have limitations. Most Insured Persons (IP) are not aware of the limitations.

We shall, see some case studies how it works.

✚ Jagdish Kanji Parmar, 26, was working for a contractor in Ahmedabad Electricity Company. He was helper earning Rs.0/- per day. The job was to replace old cable with ACB cable. He and his colleague were on top of a pole at a height of 22 feet. Other workers were stretching wire when suddenly wire broke. Both fell. Jagdish fell on ground and the pole followed him and crashed on his back. He was seriously injured. He was rushed to General hospital. Company was informed. He was covered by the ESI Act. Company filled up the forms and sent to concerned office. He availed disablement benefit, too. Still he did not know about the compensation. Some one advised him to meet a lawyer. Lawyer asked for Rs.500/-, which he paid. Lawyer sent a notice under Workman's Compensation act. Company gave 'fitting' reply and matter ended there. The lawyer was not at all needed in this case. Had he approached ESIC to initiate process for compensation claim that was enough. He was diagnosed to be suffering from paraplegia. He was not able to move freely. And attend duty. So he left Ahmedabad and went back to the village. He had just married when he met with accident. Soon his wife deserted him. In June 2002, when the whole family was out to attend a marriage, he put himself in fire. When family returned it found ashes only.

Case of Chromium Toxicity:

There is a unit manufacturing Chromium salts in Baroda. Unit is 30 year old employing about 200 workers. Most workers were inter-state migrant workers. Health & safety standards were very poorly maintained. Workers had formed an independent militant left Union. 3 workers attended PRIA workshop in Bombay in 1985, where it was observed that all 3 were suffering from dermatitis. There after I kept in contact with the workers. Some how we could not make any good progress in improving H & S situation. Neither worker nor Union took it seriously. In 1995 one of the shop floor leaders had to amputate a toe following non-healing ulcer. It aroused interest in Union and a chapter was opened. We pressured Factories Inspector to carry out inspection and medical check up. It was revealed that 50 workers had nasal septum perforation. 16 had dermatitis. Later we found that 7 workers had died in last 2 years either immediately after retiring or when still in employment. At least 2-3 among them were suspect cases of toxic effects of chromium. We wrote to ESIC to make an inquiry and compensate. Certifying Surgeon wrote to the factory to initiate process for compensation, but ESI did not accept the forms. Instead it advised all workers to be sent to them for diagnosis. Some workers went, while some remained away. 3 workers who went were awarded compensation and were paid from back date. Their disability was assessed to be 10-15%. After 2 months one of them got notice from ESIC to pay back the arrears, saying it was paid to you by mistake. We challenged this decision; the Court put a stay on collection. The matter is pending with the court for final hearing. This success inspired other workers to claim. In second batch 20 workers appeared before the Board. The board assessed their disability to be 0 %. They do not give any reasons for their decision. We have challenged this decision in the Court. Mean while because of press publicity, National Institute of Occupational Health (NIOH) carried out a study on its

own. They refused to part with the copy of the report but we could get it from the Labour Commissioner. Though the study was poorly done we found 10 cases of obstructive and/or restrictive lung disease. We advised workers in this list. One of them made a claim for occupational Asthma and Board awarded 30% disability to him Now he is getting Rs.600/-p.m. The shop floor Union activist, whose toe had to be amputated, was then fired for 'giving interview to the press and defaming the Company'. We made a claim for his ulcer and toe. After lot of representations ESIC agreed to admit his claim. He was examined by the Board and awarded 10 % temporary disablement, to be reviewed after one year. Recently they once again examined and we learn that they have awarded him permanent disability. In last year we came across 3 cases of NIHL and one case of Asthma. They were examined by ESI hospital and issued certificate to the effect. When the ESIC requested the Company to provide information necessary to process the claim, Company refused to furnish the information. It is now more than 6 months that the claims are not moving. We have offered to furnish necessary information on oath, but the offer has not been accepted.

Compensation for Noise Induced Deafness:

✚ A worker working in a compressor room of a local big engineering unit had complaint of hearing loss. We advised him and he was diagnosed by ESI to be suffering from Noise induced deafness. Then we advised worker to get the form filled up by the company and submit it to the ESIC. When he approached the Company, the clerk 'advised' him not to insist for form or shall face action. Worker got scared and decided not to go for compensation.

✚ A textile mill worker approached us through his Union to claim compensation for NIHL. We advised him. He got himself diagnosed and then approached ESIC to initiate the process. The Manager informed him that he has been working there since 20 years but has never heard of compensation for hearing loss! When he was convinced that there is such a provision, there was no form available. Union even visited the Director who declared his ignorance about such form. Then we supplied the form. When they appeared the Board, one the Board members took them outside and scolded them for false claim. Later it was officially communicated to them that there claims have been turned down. They then challenged the decision in the court. After 10 years the Court passed order in their. Bur ESIC decided to challenge this decision in higher court!

✚ We distributed handbills in industrial area on the occasion of National Day for Deaf. We informed that the noise is one of the causes of deafness and the law provides for compensation. In response we received a call from a factory owner. He informed that he has 3 partially deaf workers in his unit. We advised to have personal meeting with the workers. 2 workers came to our office. We explained them the procedure and asked them to contact us after they have been diagnosed by ESIS. Then no one turned up. After a long time suddenly I came across the person at

ESI Hospital, when I asked him about the progress. He informed that the employer has refused to co-operate and hence cannot go ahead.

Apart from compensation, even treatment part is very poor.

✚ Shana Mana was suffering from heart disease. He was advised to go for operation for mitral valve change. The operation was to be carried out by general Hospital. ESIS referred the case for diagnosis. When the General hospital advised operation they gave estimate and list of equipments needed. List was submitted to the EIS and patient waited for necessary sanction. Sanction came after 6 months. When patient approached the General Hospital with necessary sanction and equipments, the doctor privately told the family that now the survival chances are very less even after operation because in 6 month period stenosis has increased considerably. Doctor was proved right after the operation.

✚ Wife of a IP met with accident and was taken to the Govt. hospital. She had fractured her leg. She was advised to go for operation .Doctors gave her a list of equipments needed. ESI asked the IP to buy the equipments on his own from market and make a claim for reimbursement later. IP had no money and he declared his inability to make arrangement, as the Company was not paying the salary since last three months. The Doctor advised to take discharge and come back when he has money!

✚ A worker suffering from Meningitis TB had to under go operation for hydrocephalus. A stunt had to insert to drain fluid from brain to stomach. We managed some fund to buy the equipments from market including stunt. After the operation when we claimed reimbursement, we were asked to present proof that stunt had actually been inserted!

✚ Patients needing CT scan or audiometry are referred to Ahemedabad even though the facility is available in private locally. This causes lot of delay in getting proper treatment. Poor quality drugs, availability of drugs, non-appointment of doctors and other staff, non-availability of equipments, poor functioning and efficiency of staff are common complaints. What we have observed in our long experience that only urban workers get some kind of benefit. ESI do not have its dispensaries in villages and workers have to travel a long way when they are sick. Instead they prefer to pay private doctor available at door step. There is no reimbursement for such expenses.

✚ In one case the worker was suffering from ascending type polyneuritis. He might be in emergency any time. In such a case he would need ventilator. The hospital did not have it. It could have arranged it on rent, but did not. Instead they referred case to general Hospital .Even General Hospital did not have the equipment, so asked us to go to a private hospital. Not knowing the cost factor, we went there.

We were told that the treatment bill may go as high as Rs.100,000/-. So we again took the patient back to the General hospital and persuaded to hospitalize him. Whole night was very critical. In the morning the doctors decided to officially refer the case to the private hospital. We now had the right to reimburse. We took him there and arranged for fund. After treatment of 2 months he was discharged. Then we put up the bill with ESI for reimbursement. Total bill was Rs.20,000/-. ESIS, after good deal of trouble passed Rs. 6,000/-. We have challenged the decision in the Court and matter is pending with the Court.

✚ Subodhkumar Singh, born 1956, was advised by Civil Hospital, Ahemedabad where he was referred by local ESI hospital) for double valve heart replacement operation on 30-11-99. Application to sanction Rs.120,000 on 4th December,99. Till March, there was no reply so, worker moved to High Court and petition was filed in March. On 29th March, 2000. Court passed an order to sanction the amount immediately. In response Govt. sanctioned Rs.100,000 in May. 2000. Patient was then directed to approach V. S. Hospital for treatment. There he was given medicines and was kept on observation. Till September when they decided to go for operation. The cheque got expired in August, so a application was made to the Govt to issue fresh cheque. He was asked to submit form 37. By this time patient had changed his employer and his residential address too, changed. So, ESIS asked him to make fresh application through his new dispensary in January 2001. It was forwarded to head office in May 2001. Later that year the amount was sanctioned and he was admitted in hospital. We visited him in hospital when he was waiting for his turn to get operated. The operation was postponed several times. When the operation was about to take place communal riots broke out in Gujarat. He was discharged from the hospital and was asked to come later. When he was waiting for the riots to calm down he was summoned by the Company and he was shown way. We have no contact with him after that.

Last August we organized a seminar at Baroda which was attended by Director ESIS and other top officers. The seminar was organized to review the working of occupational disease centre. Neither the hospital nor the centre is equipped with Spiro meter or audiometer necessary for the diagnosis of lung diseases and deafness. Strong need of these equipments came up during discussion. Director assured to take immediate action. Now it is 8 months and there is no progress.

Accident and Disease Compensation System and Practices in Taiwan
Presentation from Tsai, Chih-Chieh, Ching-Jen Labor Health and Safety Service
Center, Taiwan

1. Brief background about Taiwan OSH laws and Compensation systems.

A. OSH laws

a. Labor Safety and Health Law (originally set up in 1974)

Main content: standard of safety and health facilities, limitation on working hour of special operation labour, limitation on child and woman labour for special operation, regular health check for workers, set up of Labor Safety and Health Committee, educational training for safety and health, investigation for occupational accidents.

b. Labor Inspection Law (originally set up in 1931)

B. Compensation systems

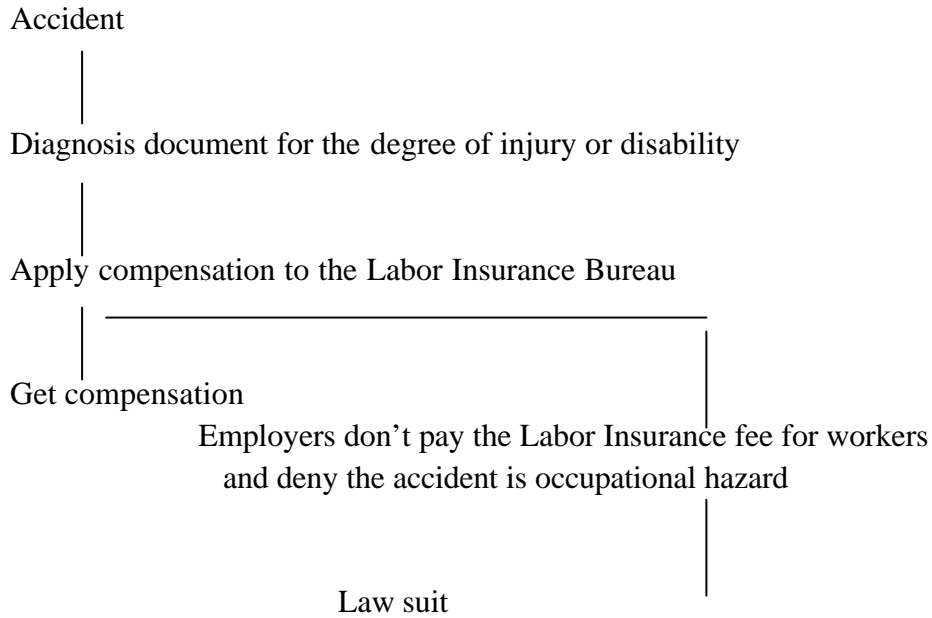
	Statutes of Labor Insurance	Labor Standard Law	Law of Protection for Occupational Accident Victims
Year of original implementation	1958	1984	2003
Suitable range of workers	Any workers who join in the Labor Insurance	Most workers (by industries)	All workers
Who pay for the compensation	Labor Insurance Bureau	employers	Labor Insurance Bureau
Medical compensation	Full amount	Full amount	---
Injury or illness compensation	70% of salary for the first year, 50% of salary for the second year	Full amount of salary	---
Disability compensation	Depend on the degree of disability	Depend on the degree of disability	Workers who don't join in the Labor Insurance can apply for minimal compensation
Death compensation	45 months of salary	45 months of salary	Workers who don't join in the Labor Insurance can apply for minimal compensation
Living allowance, health instrument compensation, and nursing compensation	---	---	For several years

Note: If employers pay the Labor Insurance fee for workers, then workers can only

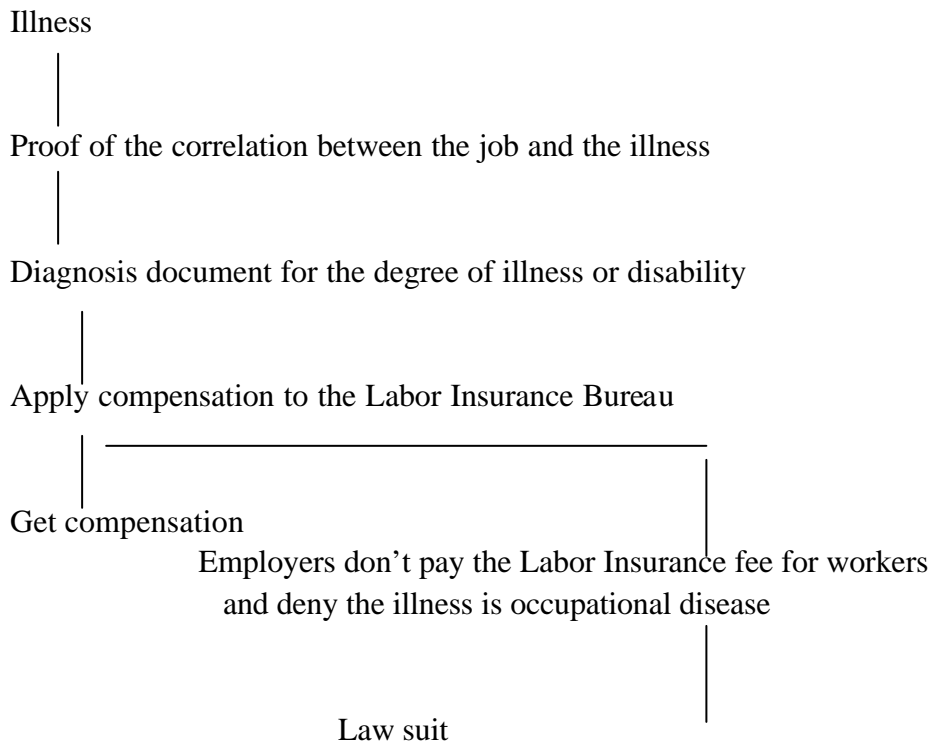
apply compensation to the Labor Insurance Bureau and can't ask employers for additional compensation.

2. What they mean to a worker who gets injured or diseased?

A. Occupational hazard



B. Occupational disease



Presentation by Chen Yong Gang, Labor Education and Service Network, China

Chen comes from the Hunan province in China and works with Labour Education and Service Network. He is also a victim of occupational accident and has lost his right hand in an accident.

He spoke about the OHS compensation system in Shenzhen. Enterprises are supposed to provide the compensation to workers in China But in reality; most factories do not provide safety equipment to workers.

The Situation of Occupational injuries

Every city in China has its own regulation. According to the law, once a worker joins a factory, the factory should have insurance for worker. But more than 50 % workers do not enjoy protection. So they are not entitled to get compensation after injury. This is especially true in construction and health industry which account for 80 % OHS in China. The amount of 200,000 RMB is the compensation. This is around 25000 \$. For those injured 100%, the compensation is 300,000 RMB. But the management has a bad attitude for compensation. For those who have insurance, the factory will only pay medical charge and not compensation. After intervention by Government, 20 % compensation can be obtained from workers.

Four days after joining, a worker had an accident. He had not been registered then. After the accident, the worker was sent to a hospital and the employers left him about 3000 RMB which could cover only 3 days in hospital and after that when the worker went to the factory, the employer refused to recognize him. When workers went to labour department, they said he did not have proof of being a worker of the factory. It was the burden of the worker to prove that he was the worker and burden of proof was not on the employer.

Some problems which workers face are:

- Too long for case to finish. So to avoid long legal procedures, workers are forced to settle for whatever conditions provided by employers.
- Too much red tapism
- Cost of legal procedure also very high.
- After all this, the compensation is low.

For those who get hurt at work, they are in the age group 18-30 years. This is an important part of their lives. The workers are also mostly the only economic support for their families. The compensation is very less to compensate for the loss caused to the worker for rest of his/her life. NGOS are important to struggle and push for higher and faster compensation.

Day 2 Session: Electronics Industries

Moderator- Prof. Voravidh

The first session of the day reviewed the OHS situation in the electronic industry. Workers in Asia face many hazards in the electronics industry. Factories move from developed countries to developing countries in search of cheap labour.

Presentation by Mr. Suchart Trakoonhoothip from Friends of Women

Khun Suchart works with Friends of Women foundation and organize workers in electronics factory in Northern Thailand. .

He described his work in the Lamphun industrial estate in Northern Thailand. It was established around 20 years ago. Mostly the factories are electronics factories. The total no. of workers is 34,000 workers. Around 70 % are women workers in the age 18-24 years. Around 80% workers are in electronics industry. In 1993 there was a big accident case in Lamphun. There were around 10 workers who died without any clear cause identified of death. And government authorities and employers said the cause of death was AIDS or kidney disease, a common ailment,. But workers and doctors and academics believed the deaths were due to occupational diseases. But at that time, the situation of the factory was bad. In reality, workers are still facing bad working conditions. People believed after this incident the situation would get better.

The health problem of workers can be divided as physical and mental. First the physical disabilities affect the body like hearing loss and loss of sight. Other diseases are not due to direct impact but caused by accumulation of chemicals. So we think that the 10 workers who died; died of accumulation of chemicals.

Another problem is not physical but neurological disturbances – long working hours with fewer holidays (e.g.1-2 days in month) cause a lot of stress. Many workers have headache a lot of time. Lack of protective gear for workers in the factory causes these problems for the workers. After the economic crisis, many factories decreased costs by reducing the number of protective gear for workers. So when the workers ask for protective gear, employees say they don't have and ask workers to buy it by themselves. Even the gear they provide are not good quality like the masks and gloves. So workers work in bad conditions and great risk to their health.

Another cause of health problem is also the attitude of the employers. They don't want to provide the gear for workers, because they feel it will give bad reputation to the factory and give an impression that the factory is not clean and not good working conditions.

Another cause is lack of knowledge and causes of ODs. The workers seem to have no chance to know about the impact of chemicals they are working with everyday. By law

in Thailand, workers should work only for 8 hrs, but in Lamphun, employers force workers to work for long hrs, this is the practice in all the factories there. If the workers refuse, they are given a memo and the workers have no chance of refusing. Workers work almost 27 days up to 12 hours a day. Workers have no chance to participate in the safety committee set up in the factories. Most of these are set up by the employers. So these are the causes of the health problems of workers. The only option for the workers is to leave their job and go back home, but then there would be no money in the family.

So what we can do is to organize workers to solve their problems. We need to unite them and organize them. They should try to participate in the safety committee and make conditions better in the factory. In the government level, we should demand the government to solve the problem by asking them to change investment principles to improve situation in factories. In conclusion , the main cause of ODs is violation of labour rights.

Presentation by Mr. Tara Bourkamsri from GreenPeace

He shared the work of GreenPeace on industrial waste

Electronic waste is electronics like tv, stereo, mobile, electronics and electric devices. The problem of electronic equipment is, it is hazardous, because they are comprised of more than 1000 chemicals, which are toxic, e.g cathode ray tube has lead.

The generation of electronic waste in the world is very high. Even with recycling, the problem is not solved because recycling is a dirty and hazardous process for workers.

A EU study says that the volume of electronic waste is increasing at a rate of 3-5 % per year, 3 times faster than Municipal waste generally.

41 million PCs become obsolete in US everyday.

Where does e-waste come from?

It comes from Individuals, large corporation, institution, govt.,- all desktops, notebooks which are changed and manufactured new.

Where does e waste go?

It goes to storage houses, to land fills, to incinerators.

The place where e-waste goes for recycling is called electronic recycling centre.

GreenPeace is tracking export of e-waste in developing countries. E waste trade is something GreenPeace is trying to stop since it is impossible for governments and people to cope with the impact of recycling. Also it should be responsibility of the

manufacturers, producers to dispose of e-waste responsibly. Also global standards need to be monitored.

E-waste dumping in Asia

If the e-waste is piled as a mountain, it is higher than statue of liberty would be 674 feet high.

We need to look at the hazards of the electronic industry at production side but we also need to look at the disposal side."

Presentation by Irene Xavier from Malaysia

Irene: "I want to make one main point- the OHS problems of workers has to be dealt with within the system in the country which is dysfunctional in Malaysia. There are many reasons. The electronics industry came to Malaysia when the ruling party would have lost power in 1969 because they were not able to deliver to the people economic wealth and development. The electronic industry with other foreign investment bailed the ruling party. These companies brought jobs for women in rural areas and government got jobs for less educated women and they were then trained. For the first 5 years, they gave jobs to many women. The industry also paid wages higher than women workers in other industries received. The electronics' industries were strong supporters of government policies. They have been repeatedly awarded employer of the year award.

But then the jobs they gave did not last long. There was cycle of retrenchment and recruitment after a few months. So the promise of jobs is short lived. Workers did not have chances to get very high wages since workers were retrenched and they had to start anew. Many women were single wage earners and kept jobs at any cost. So the employers maintained a young work source and put a lid on the wages.

What did the government give to factories' owners?

The government said they would not allow TU movement and activities. Trade unions were not allowed to exist and where they did exist; they were manipulated. Malaysian TU movement has not threatened capitalism very much.

The reasons the companies feared Tus and wanted to curb them is, because they were scared of lawsuits like those they faced in US. I feel because of the severe health problems women workers faced in electronics, the companies did not want lawsuits like workers had done in US. So I think is this is why they don't allow TUs.

The TU movement in Malaysia has not taken any aggressive position for better OHS conditions. This has also contributed to poor OHS situation of women workers. The demand for a national electronics union is not motivated by concern for health of

workers.

The electronics industry is a dangerous industry and workers face a lot of problems. Many problems are related to reproductive health of women. They face problems of menstrual disorders, abortions. These things are not taken seriously. One University did a study on reproductive health but all electronics factories refused them access to the factories, the researchers could speak to workers only outside.

There is great problem of toxic waste. In Malaysia the greatest toxic waste are kept in the plants since there is no place in the country to dump them. The government in 1994 came up with a law on OHS for workers. But the law looks good on paper but it cannot be made effective unless the OHS committees locally are working and since they don't, the law doesn't work. The problems of electronics workers are also not recognized.

Presentation by Wu Chih-kang from Taiwan on RCA

RCA is one of the most popular brands in Taiwan. It is a US brand. She has worked in the factory in the video. The factory was set up originally in US, they then decided to move to Taiwan and Mexico due to unsafe working environment and hence to escape US regulation. The factory was set up in Taiwan in 1968. At that time, working in RCA was considered as a good place since wages were high, food was provided. They expected high education in their workers. Women workers were more in number, these were young women who wanted to earn money to go to college. Of every 10 workers, 7 were women.

At that time workers did not have much knowledge on OHS and also the factory did not give much info on the chemicals they would use. Now some of these have been proved to cause cancer. The raw materials were very cheap so there wasn't much attention given to recycling, and the toxic waste was disposed in the ground in shallow wells in the factory premises. In the factories, all workers used underground water. The managers, who were from the US, they knew the hazards involved in drinking ground water. They used only bottled water, but the workers used poisoned ground water. Managers also got separate water supply. Workers who were in dormitories also used under-ground water. Workers also worked in confined spaces, so with the poisonous water in their systems, the workers had very long exposure to the toxic materials. In the investigation, one specific part of assembly line, the workers had very high incidence of cancer. This was due to the toxic they used.

Session 3

Problems of women and their role in victim's movement especially in Toy Industry

Moderator: Rakawin Leechawanichkul: "Toys are products of joy but they turned into

items of tragedies in 1993 after Kader and Zhilli fires. There have been many demands of better OHS measures since then for workers. We have seen some successes in the past 10 years. Some of this can be seen in the ANRAOV newsletter. Yesterday we spoke to many victims. There are still many problems in making courts and policies work in reality. We need to see how to improve the movement for victims”.

Presentation by Chen Yuying, Center for Self-strengthening for Disabled Persons on Zhilli fire in China

“I was the first group of women workers who went to Shenzhen. I joined a toy factory and started working in the assembly line. That’s how I started my working life. This is not unusual for poor rural women in China. Even now when I work with NGO, I see a lot of cases like me, young teenage girls leave their homes to come and work in industrial zones. They sometimes come with friends or to find relatives and work in Guangdong. They work as workers even when they marry and have children. Through research in rural areas, it has been found that 74.3% women in the age group 17-25 work as migrant workers in industrial zones and they get no occupational training before joining work. A lot of them also do not sign any contract. They work long hours and get paid very less. Most of them work in toy and handicraft factories and they work normally 12-16 hrs. They thus have a boring monotonous life working in assembly line everyday.

When I was working, the security guards would also do body search of every worker to ensure we didn’t steal something, when we left the factory. There were iron bars in all the factories to prevent theft. The dormitories were very crowded. We slept on beds, which we could not even turn in since they were small. There was very little space between the bed and the bath. We didn't have hot water supply to save the factory costs. Usually the factory wouldn’t allow the workers to go out of main gate of factory. There was no protection against ODs. We felt we were part of the machines and not humans. Now through the efforts of NGOs and media exposure, we see a lot of improvements in many areas.”

Some update on the Zhilli fire and the compensation

“After the fire, the employer was bankrupted and jailed to prison for 4 years, but after 2 years he was released. This employer has now set up another toy factory in Shenzhen, which is in production. We are in doubt whether this employer was jailed to avoid his having to pay compensation. The victims could not find anyone to claim compensation from at that time. Eventually the government paid some compensation according to some regulation. The calculation was low and there was no compensation for many aspects e.g.- medication and rehabilitation fee was not calculated in the compensation. The victims were in a weak position to fight for compensation. No matter how we tried to voice it, our voices were not heard. We had no power to negotiate with the boss so we had to accept what was offered to us. At that time, we got help from some NGOs and

media who tried to fight for our rights. Without their help, it would have been even more difficult. So here I will represent Zhilli fire victims, and on their behalf I will try to express thanks to those NGOs.

The NGO I work with is trying to help disabled workers and migrant workers. We are trying to create a platform and space for them to communicate. We have hotlines, do visits and organizing activities. We try to help disabled victims face life more optimistically and encourage them to get involved in social issues. We also try to provide OHS advice and services to them, to improve their lives. We are trying to spread knowledge on OHS to migrant workers. We try to reach workers before they go to big cities and give them education on labour laws. Usually migrants leave home in winter or early spring. So we go to rural areas to give out information and lessons to would be migrant workers before that. Some issues we give training on are labour laws, occupational health, how to get compensation if they get hurt.

Last year we handed out 10,000 leaflets and booklets. We do occupational injury right defending for victims. We did rights' defending for asbestosis workers. 70 % of *tatami* workers comes from Jo Jajmi. The NGO in which I work in is based here. We have 50 people who have II stage asbestosis, they are now living in rural areas and did not get compensation. They live in poor conditions. We want to help them get compensation. We also want the employers to provide better working conditions and protective gear. We also want to set up networks with other NGOs and patients for rehabilitation.”

Presentation by Rasamee Suparaim, victim of Kader Factory fire in Thailand

“I am going to present two important issues- social and health problems of women workers in the Toy industry in Thailand. The toy industry comprises 98 %; of women workers. Thai women workers in toy factories have finished compulsory education. They have no opportunity to study further due to poverty. Most of these women workers are in the age 15-18 years. Once they migrate, they are away from their family and they are vulnerable to abuse. Many workers have children without a husband, in which case these children are sent to villages to be taken care by family. The mother and child don't get to spend time together.

Regarding the working conditions, most workers have to do OT. The company would not inform them before hand, so after the Overtime, when the women had to go back home alone, they were susceptible to sexual harassment, violence and even rape. Some women had family problems, due to forced OT. Husbands would mistrust their wives due to the late working hours and this resulted in domestic violence some times.

Health issues in toy factory- there is pollution like dust in workplace. In packing section, women workers have to work with dust. Thailand is a hot climate and so many workers do not use protective gear and hence they inhale the dust. Ten years ago Bysinosis was unknown among workers. After Kader factory fire became known, workers in a factory

in Korat organized since they had had two fire accidents already. But the factory closed down.

Workers have accidents many times due to monotonous nature of work Faulty equipment is also another cause for accidents.

Sharing another case, a woman worker exposed to chemicals in a plastic factory quit work without any compensation when she got ill after working for 1 year in the plastic factory. She had inhaled toxic substances unknowingly. She went home and got medical attention at her own expense, she died then at the age of 19. The parents could not tell others the cause of the death. The family was also not aware they could get compensation.

After 10 years of Kader fire, I would like to see the success of our demand of OHS Institute. Otherwise the case will be neglected”.

Chan Ka Wai from HKCIC

Some basic problems of the toy industry affecting OHS:-

- 1- Toy industry is labour intensive and needs low skill workers who are easy to be replaced. So workers have no bargaining power
- 2- Job insecurity which pressurizes workers to accept harsh working conditions
- 3- Almost 80% toy factories are Hong Kong investment.
- 4- Special character of Hong Kong investment is : 99% factories are Small and Medium Scale Enterprises. They have little money fro investment and they try to get profits as fast as possible. So they do not want to spend much money on H&S situation. In China it is common that even if they have H&S insurance, they give only part of compensation. Hong Kong investment scale is small so they are not original equipment machines, they depend on orders, they cannot place orders, so they have to accept conditions set by brand names.
- 5- Toy industry is highly seasonal. 75% production is done in 3 months from June to Aug maybe till September.
- 6- So workers in this peak season are forced to work 16-18 hrs. Workers have to work 70-84 hrs a week.
- 7- Buying practice of brand name- pricing is going down. In the last three years pricing was cut by 10 %. So for better service, less price, the factories try to cut labour costs, cut H & S costs and make workers work long
- 8- Brand names use inventory policy. So they try to give short orders- less time to save storage time. So also to test the order, they will order small quantity. This adds pressure to factory; they have less time to fulfil orders. So workers are refused off days. This is not only for workers but also for management. To deal with this unreasonable demand, the employees have new production strategy- flexibility. 30-40 % workers in china are Contract workers. This increases job insecurity and bad working conditions.

- 9- Factories also have centralized production facility to avoid monitoring.
- 10- Crazy productivity policy- more output at same time- greater pressure and use of quota system. Rearrange the working time- 11 am to 7 pm. So most time only for working, no social time. To cut time into shift system. This is found to be most efficient. These are violation of laws. This is also violation of Human rights, of denying a social life to workers.

Mabel Au from Committee for Asian Women (CAW)

Most victims in the tragedies are women, most workers are also women. Women are chosen to work because young women are seen as docile, easy to manage. This is also socially constructed. Patriarchy reinforces these concepts. Boys in the family study while girls work. Most young women who come to work are from rural areas. So they don't have experience in urban life. So without knowing their rights, they work. They are not able to report any problems they face or see since they are not expected to complain but only work. Toy industry is labour intensive and low skilled. The workers cannot also investigate the health standards.

OHS issues

As security measure, the factory gates are kept locked to prevent thefts and robberies. So workers cannot escape in case of industrial accidents.

Reproductive health- lots of chemicals are used in many industries. Many women are forced to work long hours and they die of exhaustion. Some also have unstable psychological state.

Sexual Harassment- factories are not really that safe for women workers, they face sexual harassment. Women workers have to keep quiet. The employers do not have special policies on this nor does the government address this

Social life- due to long working hours and being closed in dormitories the social life of women workers suffers.

CAW thinks it is important to provide training to workers- gender leadership training, demanding policies on SH. It is also important to document OHS situation in workplace.

Questions And Answers

Comment from Jonah from Malaysia- Malaysia also has RCA factory. Workers face the problem, the factory changes its name and so the TUs, which are registered, are disqualified and it takes the TUs a lot of time to change their names. So by using this simple strategy of changing names, the factory escapes.

Comment from J John from India - We need to acknowledge the strength of the victim presenters. The strength is derived a lot from being women.

Session on - The Construction Industry

Moderator- Apo Leong

Bala Krishnan, Malaysia

Current Malaysian Law on OSH

OSHA 1994 law is very nice which the government has established. Building construction and engineering works regulation clearly states the safe way to build but contractors do not follow this.

Workforce in construction =800000 workers- data collected from union
60 % migrants, 40% Malaysians.

1 toilet for 20 workers but 1 per 100 workers given

DOSH- department of O S and Health

CIDB- Construction Industry Development board

NIOSH- National Institute of O S and H

Azman Sah Sabali, Malaysia from NIOSH

Roles of OSH Institute

We have a department to monitor OSH training and regulations.

Act, regulation- at department level

Practice at ministry level

NIOSH SET up in 1992

Number of accidents reported in all industry-

FMA- Factory management act

A.R. Chowdhury Bangladesh

Construction industry has contributed to domestic economy. We do not have official statistics on number of workers but it is thought to be 1.5 million workers, many of who are women workers. It is contributing to national GDP and growing rapidly.

It is a neglected sector. It is considered to be informal sector. Workers are mostly unorganized.

Vijay Kanhere, India

In India, there are 2 types of workers involved in the construction industry- site workers, who work and stay at the site of work. Second type is *Naka* workers referring to roadside workers, who stay by roadside. Construction workers- contractors, sub-contractors and masons come to this roadside and select workers. So work for the latter is very insecure and a day-to day question.

There are very few permanent workers; most are temporary seasonal workers in this industry in India. The migrants are internal migrant workers, those who work in construction industry when agricultural season is low

Problems of women construction workers are specific problems. All are unskilled workers and don't have chance to upgrade their skills and hence they get paid less. In construction sites, actually women do more heavy jobs than men. So women have particular hazards- lifting weight during growing age, working during pregnancy

Due to dust, both men and women suffer. There are acids and alkalis used to clean iron materials, and the tanks of these are on the site, so there have been cases of injuries to workers.

Workman's Compensation Act- This Act has been in place since 1923. Not a single construction worker has claimed compensation till 2003. Some fatal cases have been compensated. Where there is some organization, workers get compensation for dependents and families for fatalities. Other places getting even the cost of medicine is rare.

In 1996, Government of India passed a especial law for construction workers to regulate conditions. This was due to a campaign of TUs and NGOs.

A section of this Act says- In an accident, if 5 workers die, then the government inspector should enquire and report in a month but if only one person dies, no inspection is done.

If there is violation, then workers, TUs or NGOs working for the sector can go to court.

This is good because the strength of TUs is being reduced.

For those workers who stay on the site, their families also stay on the site. So the children of workers are always around, and sometimes get injured. These children do not have access to education.

There is one NGO- a union in Chennai which is an active union in construction industry. This NGO called Nirman is asking for new legislation. They do training for workers on first aid. Likewise many NGOs and TUs do this.

Session name: Mining Hazards

Moderator: Vijay Kanhere

A Video by on Mae Moh Lignite Power Light and Coal mining in Lampang province was shown to the participants by Dr.Voravith.

Sanjiv Pandita, Coal Mining in Dhanbad , India

According to statistics the workforce in this sector is 1 million. But the actual workforce is not just 1 million. There is unorganized workforce in the sector. In the state of Rajasthan itself, there might be 5-6 million workers; there are small quarries in India. So reported workforce is under estimated.

As per law, the same lift can't be used to bring coal and people but this is done. It is very hot in the mine. So workers wear very little clothes. The coalface is blasted and then this is transported to the lift and taken out.

The workers don't have protective shoes; the company shown here is a PSU and is losing money. So they don't provide safety gear to workers.

Earlier, loading was manual now it is mechanical. The mine has primitive roof support, which is hazardous. Pulling out the coal tub out of the lift is very strenuous and puts pressure on back.

Water is scarce on the site so after blasting it should be cleaned with water to prevent dust but this not done.

Earl Brown -

Earl, "I am speaking for Dr. Sun Schuhann from Beijing. I have represented American coal miners for a long time. I have gone into many Chinese coals mines. Comparing mining between US and China- irrespective of pace, mining is bad. In US, coalmines

are safe only after 1974. It is safe because of United Coal Workers in US.

The largest coal mining reserves in world are in the US followed by China. Chinese mining goes from deep high tech to the most unsafe mines that have twice the death rate than Indian mines. China has tremendous market for coal for heating. It is also exported. The by-product of coal is also highly sold in Japan for construction. So the economic forces for coal production are very strong. Illegal mining is also present. Much of this illegal mining is very dangerous. Coal itself is like the roof and pillar of the mine. Fatalities in China- recorded are 15000 per year.

Mining is done without much protective gear. Injured coal miners are not compensated.

Deep mines lack money to ensure safety. There are also privatized mines. The government has to make sure the safety of workers. The government of China is committed. There should also be effective regulatory and monitoring system. This issue will require a lot of discussions and debates.”

Day 3

Session: A Special Training on using simple testing devices to check loss of hearing demonstrated by Vijay Kanhere and Malavadkar Pralhad

Moderator- Ka Wai from Hong Kong

Vijay, “Hearing Loss is a common problem in many industries and one of the most neglected problems. Noise causes hearing loss but also lack of concentration, mental problems. In most social security Acts, hearing loss is covered, so we look at hearing loss due to noise. Workers are afraid of doctors, medical equipment. Many union activist are scared and don’t know the medical aspects. Many doctors also don’t know the occupational aspects. We want to say that medical things are easy and not intimidating. Doctors do not learn workers problems in their course and their specific problems. But workers can learn to use medical equipment on their own to check for hearing loss.

We will show an audiometric test, which is very simple, and in Mumbai even workers’ leaders do this. We will also try and explain how to interpret the test.”

Malavadhkar, “Noise induced hearing loss is a very rampantly observed occupational disease. This is observed in textiles, boilers, engineering fabrication etc. it is observed in many industries. Even medical professionals doubt the existence of this disease. Because noise induced hearing loss is not observed in daily life and also these people can hear daily conversation. So they are not apparently deaf.

Noise Induced Hearing Loss (NIHL) is different from Conduction Loss (CL). CL is due to the disorder in outer ear. NIHL is related to nerves of the ear that carry the sensation of the noise to the brain. So high frequency noise produces this disorder in the nerve. Once the nerve is affected, this hearing loss is permanent loss. We observe it in most industries. There are also other reasons for sensory neural loss e.g. mumps, antibiotics, and high dosage of drugs due to malaria. But these causes are limited and clearing. But NIHL is induced over a period of time. In Workers Compensation Act, a 6 months period is prescribed for NIHL. Due to drugs, the effect is prescribed as immediate. So cause has to be distinguished.

In the last 5 yrs we could do medical checkups of textile workers. The doctor in our team has certified the workers who have been suffering with this occupational disease. These cases are decided by special medical boards. 600 workers got permanent resettlement compensation of 6 lakhs per month. So the doctor's diagnosis' will help the workers get the compensation.

CL is when sound comes to the ear but doesn't reach the nerve, like putting cotton in ear it is CL, e.g. eardrum is damaged. These cause CL.

But even after conduction, if the sound reaching the inner ear cannot interpret is, then it is Sensory Neural Hearing Loss (SNHL). If the medical diagnosis says it is a SNH loss and if there is history of exposure to high noise, then it is NIHL.

In industries, the noise has both high intensity and high frequency. The frequency is 4000-6000Hz. (Frequency means how many times noise hits the ear in 1 sec and Intensity means how strongly the sound waves hit the ear).

Decibels in which noise is measured, follows a logarithmic scale and this is important to understand the limits of noise in the industry. The scale is to the power of 10. 25 Db is considered to be a cut off sound.

Q- So how to know if a person cannot hear even up to 25 Db, whether the hearing loss is CL or NIHL

A- Simply putting on the earplug, we know if it is CL.

To know if nerve is affected, we use another instrument, on the bone near the ear, to see bone conduction.”

A Test on a Thai worker from the weaving industry, Ms. Sukanta Sukpaita was one to illustrate the use of the equipments.

After diagnosis of the hearing loss, comes the step of evaluation of the disability. This should be done on the basis of the graph. Then the workers should go to an ENT

specialist.

JB Patel, "I want to add that deafness can also be caused due to chemicals and this deafness is compensable. This is not due to noise. If in an accident if there is concussion of head or explosion, due to the acute exposure to the sound, deafness can be caused."

Vijay, "Pollution should be cut at source. Protective equipment should only be the last resort. This is easy for the management to save cost."

Question- what if the graph goes straight at 6k and 8k?

Answer- the occupational history and age of the worker is very important in ODs for the correct evaluation. How the symptom began is important to note also. Usually this starts with headache, temporary hearing loss after leaving workplace.

Question by Sukanta- Is this test accepted by employers, if yes, then what is the responsibility of the employer?

Answer- in Indian social security system the compensation is from the system not from the employer. If a doctor is there, then it is acceptable. The other option is to get a certificate from an ENT specialist. Even if the social security wants to do test it gives the worker strength to face the officials and also helps starts the process.

Another symptom of NIHL is ringing sound in the ear after leaving workplace.

Lung function test- can be done by ventilometer; to test lung capacity to check for bysinosis and occupational asthma.

Session on Strategies to organize the victims

Lin Hsin Yi, TAVOI

Video on work of TAVOI

A photo compilation 7 yrs ago was done and exhibited in an expensive area in Taipei. They also did a picture book on the victims and last year another one of the families of the victims who died. Doing the picture book is not easy for the family. But then they realized they had to voice out the story and let others know. We have also included pictures of migrant workers and indigenous peoples who are the most marginalized in Taiwanese society. The book also includes pictures from families of victims. We also have documentation of the occupational disease history and the problems. The book is our joint project with the publisher and is available at all big bookstores in Taiwan for common people to read.

We are trying now to bring TUs into our work. We want to link OSH and death from overwork. We want TUs to be involved in decisions.

We use cultural means to document history of problems of workers. We use video documentation also. We struggled for an important law. Occupational Injury Protection Act, which was passed last year. It is an important achievement for us in past years. The onus earlier was on the worker to prove the injury was work related. Now it is the employer's responsibility under this law. Under this law, all workers in Taiwan even migrant workers will get compensation and the government will get the money back from the employer. So the worker does not have to deal with the employer. They get the money from the state.

Chan Kam Hong, ARIAV, HK

We were established in 1981. I think victims' groups are very important in OSH and labour movement. There is no one to take care of workers' health and compensation. Compensation is important for living of the victims but these groups are important to help other victims and potential victims.

Mother's group- comprises wives of victims. We do recreational activities first because most are undergoing mental trauma of losing husband, of compensation seeking and for taking family burden alone.

Advocacy demonstration photo-

Medical reimbursement system for pneumoconiosis victims

Organize low back pain workers – as they are classified as least level of occupational disease victims since their symptoms are not obvious.

Organise injured workers

Centre for S &H Education- public demonstration, publication and knowledge

Crisis intervention, policy advocacy

Campaign of workers memorial day (28 April)

Session: Future Plan for ANROAV

Finally, there was a planning session in which the past year activities of ANROAV were discussed and also draft of the next year activities was prepared with specific responsibilities to different members. Some of the activities planned for the next year are as under:

- Safe Mining Campaign in India, China, Vietnam, Thailand and Indonesia.
- Campaign against use of Asbestos.
- Campaign against the double standards by MNC's (Same company will have better health and safety provisions for workers in the west but will have worse standards in their factories in Asia).
- Research on Electronic Industry in Thailand, India and China.
- Training of trainers on health and safety and also on how to organise victims.
- Collection of database on worker friendly doctors and lawyers in the region.
- Further development of ANROAV website which would link to the web pages of individual members.

List of Participants

Overseas Participants

No.	Name	Organization	Contact Address
1	Apo Leong	AMRC Asia Monitor Resource Centre	Tel: (852) 2332-1346 / Fax: (852) 2385-5319 apo@amrc.org.hk http://www.amrc.org.hk
2	Chang Dae-oup	AMRC	chang@amrc.org.hk
3	Sanjiv Pandita	AMRC	sanjiv@amrc.org.hk, admin@amrc.org.hk /
4	Chan Ka Wai	HKCIC Hong Kong Christian Industrial Committee	Rm.704-5, 57 Peking Road, Tsimshatsui, Kowloon, Hong Kong. Tel: (852) 2366 5860 Fax: (852) 2724 5098 hkcic@hknet.com ka-wai@cic.org.hk
5	Chan Kam Hong	ARIAV Association for the Rights of Industrial Accident Victims	1/F, Lam Tin (West) Estate Community Centre, 71 Kai Tin Road, Kln. Hong Kong Tel: 23665965 Fax: 22436446 ariav@netvigator
6	Ng Chung Ka Wai	ARIAV	chungwai@netvigator.com
7	<i>Iau Kai Ih</i>	ARIAV	Same as above
8	<i>Lai wai Kwan</i>	ARIAV	Same as above
9	<i>Eric Poon</i>	RTHK	Same as above
10	<i>Irene Xavier</i>	Friends of Women Organization	1 Jalan Muhibbah 11 Taman Muhibbah 43000 Kajang Selangor Malaysia Tel/Fax: 603-87378380 psws@po.jaring.my
11	Vijay Kanhere	OHSC Occupational Health and Safety Centre	1347, 17-B, MHB Colony, Tata Power House Rd., Borivali (East), Mumbai – 400 066, India sujvij@vsnl.com
12	Malavadkar Pralhad	OHSC	A/3,Shramik Vasahat, Hill Road,Kajupada, Borivali East, Mumbai-400 066. India Tel.91-022-28973512 email : malwadps@bol.net.in

13	Jagdish Patel	PTRC- Peoples Training and Research Centre	43, Srinathdham Duplex, Dinesh Mill-Urmi Rd. VADODARA-390007, India patelj@sancharnet.in
14	Choi- Eun Hee	Solidarity for Workers' Health	Rm. 502, Sang-oh Building 183-9 InHyun-Dong-2-Ga Joong-Koo, Seoul, 100-082, South Korea Tel : 82-2-2269-3891-3 Fax: 82-2-2269-7156 laborhealth@yahoo.co.kr www.laborhealth.or.kr
17	Bae Joon Boem	KCTU- Korean Confederation of Trade Unions	5fl. Daeyoung Bldg. 139 Youngdeungpo-2-Ga Youngdeungpo-Ku, Seoul 150-982 Korea Tel: ++82 2 2636-0165 Fax: ++82 2 2635-1134 Email: inter@kctu.org
18	Furuya Sugio	Japan Occupational Safety and Health Resource Center (JOSHRC)	Z- Bldg, 5F, 7-10 Kameido, Koto-ku, Tokyo 136-0071 Tel: 81-3-3636-3882 Fax: 81-3-3636-3881 joshrc@jca.apc.org http://www.jca.apc.org/joshrc/index_e.html/
19	Toyama Naoki	TOSHC Tokyo Occupational Safety and Health Center	Same with the above toyama@jca.apc.org
20	Tsai, Chih-chieh	Ching-Jen Labor Health and Safety Service Center	2,Lane 175, Ta Li Street, 108-Taipei- Taiwan Tel: 886-2-2304-3217 Fax: 886-2-2304-3254 cjlhassc@ms39.hinet.net
21	Wu Chih-kang	RCA Radio Corporation of America	occupaku@ms15.hinet.net
22	Lee Tai man	TAVOI Taiwan Association For Victims of Occupational Injuries	10F-2, No. 32, Jinjou St., Taipei, Taiwan (104) Tel: 886-2-25715591 Fax: 886-2-25811787 E-mail: occupaku@ms15.hinet.net
23	Lin Hsin-yi	TAVOI	jellico@mail.net.tw
24	K. Balakrishnam	Association of Construction of Occupational Safety and Health (ACOSH)	balaacosh@hotmail.com
25	Khairul Anuar	Labour Resource Center (LRC)	383, 1 st Floor, Jalan 5/59, 46000 Petaling Jaya, Selangor, Malaysia Tel: + 603-77843785 Fax: - 603-77843526 lurria3@hotmail.com lrc@labourcentre.org

			www.labourcentre.org
26	Saz Azman	National Institute of Occupational Safety and Health (NIOSH)	Lot 1, Jalan 15/1, Section 15, 43650 Bandar Baru Bangi, Selangor Darul Ehsan. Tel: 03-8929 6706 Fax: 03-8926 8037 azman.sah@niosh.com.my
27	Marsen Sinaga	LIPS – Sedane Labour Information Center	Jl. Dewi Sartika No.52 F, Bogor 16121- West Java Indonesia lips@indo.net.id
28	Bert Marten	Oxfam Belgium	C/o Oxfam Belgium IPO Box 61 – Hanoi – Vietnam bert@oxfamproject.netnam.vn
29	Vu Manh Hung	VGCL Vietnam General Confederation of Labour	216 Nguyen Trai Thanh Xuan Hanoi Vietnam Tel : 84 4 5540329
30	Abul Hossain	United Labour Forum & Bangladesh Garments Workers and Employees Federation	bgwef_ulf@yahoo.com
31	Shah Jan Khan M.P.	GTWL	
32	AR.Chowdhury	Bangladesh Occupational Health, Safety and Environment Forum (Bangladesh OHSE Forum)	International Secretary Bangladesh Free Trade Union Congress (BFTUC) 6-A/1-19 Mirpur, Dhaka-1216, Bangladesh bftuc@agni.com , repon@operamail.com
33	Ung Wai Keong	Federation of Trade Union/ Association of Social Security of Macao	
34	Jeremy Lei Manchao	Federation of Trade Union	jerlei@macau.ctm.net
35	Yub Raj Poudel	<i>Gefont</i> General Federation of Nepalese Trade Unions	P.O. Box: 10652, Man Mohan Labour Building, Putalisadak, Kathmandu, Nepal Tel: 248072, 245532 info@gefont.org
36.	J.John	<i>CEC, India</i>	jjohn@labourfile.org
37	Billy Hung	Oxfam HK	17/f, 28 Marble Road North Point Hong Kong Tel : (852) 3120 5219 Fax: (852) 2527 6202 billy@oxfam.org.hk
38	Cheng Jian Wei	Culture and Communication Centre for Facilitators	Room 201, Unit 4, Building 15, Fu Yi Yuan, Dingfuzhuang Bei Jie Chaoyang Qu, Beijing 100024

39	Li Zhen	Culture and Communication Centre for Facilitators	Tel: 86-10-85813981 cccchina@sohu.com
40	Sha Ma A Ye	Culture and Communication Centre for Facilitators (CCCF)	Same as above
41	Ban Lee	Oxfam HK	yqli@oxfam.org.hk
42	Liu Yi Fan	Henan Community Education and Research Center	liangjunzz@371.net
43	Gao Li	Chinese Working Women Network (CWWN)	1/F Podium, Lai Lan Building, Lei Kok Estate, Kowloon H.K cwn@cwwn.org exco@cwwn.org
44	So Sheung	Labor Education and Service Network	8 B , 444 Nathan Road. Yaumatei, Kowloon Hong Kong
45	Chen Yong Gang	Labor Education and Service Network	Same as above
46	Huang Xiao Yong	Labor Education and Service Network	Same as above
47	Wu Lei	Labor Education and Service Network	Same as above
48	Chen Jian	Center for Self-strengthening for Disabled Persons	135 Beishan Road, Zhong zhou Township, Zhong County, Chongqing
49	Chen Yuying	Center for Self-strengthening for Disabled Persons	Same as above

Participants from Thailand

No.	Name	Organization	Contact Address
1	Earl Brown	ACILS	evbrown@loxinfo.co.th
2	Phil Drew	OHSE	phil@ohseinstitute.org
3	Dr.Voravid Charoenlert	Chulalongkorn University	cvoravid@chula.ac.th
4	Dr.Tsuyoshi Kawakami	ILO	kawakami@ilobkk.or.th
5	Suchada Boonchoo	ANROAV	anroav_ohs@yahoo.com
6	Somboon Srikamdokkare	WEPT	wept_1@hotmail.com
7	Jadet Chowilai	FOW Friend of Women Foundation	fow@mozart.inet.co.th
8	Au Mabel	CAW Committee for Asian Women	caw@mozart.inet.co.th

9	Deepa Bahrathi	CAW	caw@mozart.inet.co.th
10	Rakawin Leechawanichphan	Homenet , Thailand	homenet@asianet.co.th
11	Wilaiwan Saetea	Women worker unity group	
12	Ubon Rompoethong	Thai Durable Trade Union	
13	Nuengnong	MMI Trade union	
14	Supranee Prayaikham	MMI Trade union	
15	Mr. Paworn Madee	The textile Garment and Leather Workers' Federation of Thailand (TWFT) Saraburi	
16	Kitiya Silakwa	Kawazumi factory	
17	Sripai Nonsee	Ex-worker of Pargarment	
18	Eakaporn Rakkwamsook	Ex-deputy of Labour minister	
19	Somsak Paiyoowong	Thai Center for Labour Rights (TLR)	s_tlr@hotmail.com
20	Taweep Kanchanawong	Thai Labour Museum (TLM)	
21	Rachanee Nilchan	Health Project for Lampoo Worker	nilchan2@hotmail.com
22	Suchat Trakoonhoothip	Lampoo group	suchattrakoonhoothip@hotmail.com
23	Junya Limprasert	Thai Labour Campaign (TLC)	lek@thailabour.org
24	Rasamee Suparaem	Kader victim	supaaim@yahoo.com
25	Ploenpid Srisiri	Port Authority of Thailand Workers Union	
26	Bundit Thanachaisethavut	Arom Pongpangan Foundation	apflrc@loxinfo.co.th
27	Chutima Boonjai	<i>The Bangkok Mass Transit Authority State Enterprise Workers Union (BMTA)</i>	
28	Yuphadee Reungrung	<i>The Bangkok Mass Transit Authority State Enterprise Workers Union</i>	
29	Unchalee Sirisin	<i>The Bangkok Mass Transit Authority State Enterprise Workers Union</i>	

30	Premjai Jaikla	Thai Labour Campaign (TLC)	
31	Tamaki Endo	Chulalongkorn University	tamaki_endo@yahoo.co.jp
32	Sugarnta Sookpaita	<i>Thai Kurabo Labour union</i>	
33	Anong Sonsurin	British Taisin Trade union	
34	Parichat Saetea	British Taisin Trade union	
35	Tara Buakamsri	Green Peace SEA	tara.buakamsri@th.greenpeace.org
36	Mr. Komson Junon	WEPT	wept_1@hotmail.com
37	Alison Crisman	ACILS	
38	Phan Wanabriboon	Working team	pwanabriboon@yahoo.com
39	Parat Na nakorn	Working team	paratn@hotmail.com
40	Junya Buasorn	Working team	b_junya@hotmail.com
41	Supawadee Phetcharat	Translator	p_kratae@hotmail.com
42	Piengporn Panasumpon	Translator	p.pieng@clickta.com
43	Wasanaa Lumdee	Thai Labour Museum	
44	Penchan Chaloesuthiphan	Bangkok Post Reporter	
45	Chirawatana Charoonpatarapong	CAW	caw@mozart.inet.co.th
46	Chalat Glinubol	Mahidol University	
47	Chainarong Boonmala		
48	Bungon Kamprasert	Ginasumphan Trade Union	
49	Saiphon Cherdmee	Ginasumphan Trade Union	

