

Jagdish Patel, Coordinator, ANROAV honoured by OSH Section of American Public Health Association



On November 3, Jagdish Patel received International Award from OSH Section of American Public Health Association at Washington Convention Center, Washington DC during 135th Annual Conference of APHA. OHS section is inexistence since last 93 years. Maggie Robbins introduced him to the audience. During his reply, Jagdish Patel also remembered ANROAV. He said, "Situation is even worse or similar in our neighboring countries and other Asian countries. Asian countries have experienced some of the worst industrial disasters in last few years. No more we remember Three Mile Island or Flixborough or Chernobyl. These terms have been replaced by

Bhopal, Kader and Zhilli. Large numbers of accidents at work goes unreported. Countries like ours have no reliable data on the deaths occurring at work due to accidents and diseases Workers dieing of Occupational diseases is very large. Environment at work remain highly polluted and no one bothers about it. In many Asian countries tyrant regimes do not give freedom of expression to its citizens and freedom of getting organized to their workers. This is very reason why grassroots groups in Asian countries have come together to form ANROAV -Asian Network of Rights of Occupational Accident Victims.

Globalization, privatization and liberalization are sweeping across the world. What is observed still is, social divide is widening. Situation is changing fast in some areas while it is slow in areas like OHS. Our struggles will have to be globalized for more equitable society. For us it is a long way yet to reach to the standards of OSH in industrialized countries. We seek greater understanding and cooperation between grassroots groups in industrialized countries. I am aware; you have come along way through consistent struggles and social movements. We learn from your experiences.

Among all odds we have continued our efforts for better OHS standards at work through advocacy, awareness, publications and trainings. With APHA-OHS Section recognition our moral have boosted."

During his stay in US he visited several US grassroots organization like PhilaPOSH in Philadelphia, New York Committee on Occupational Safety & Health (NYCOSH), Work Environment Council in Trenton, New Jersey, National Labor Committee (New York) as well as Trade Unions like SEIU and AFL-CIO.

ANROAV brochure was prepared for distribution. Garrett Brown, longtime ANROAV friend was of great help to him in raising fund for his travel as well as introducing him to various individuals and organizations.

He also had occasion to attend PhilaPOSH Award Ceremony in Philadelphia and Book Promotion meeting organized by NYCOSH in New York. He visited individuals like Prof. Barbara Berny and Labor historian Prof. Gerald Markowitz who has penned Dying for living and other books on OSH.



Health & Safety in Asian Mines

AMRC, PTRC, ASEI TRUST and DGMS organized two day workshop on OSH in Asian mines at Dhanbad, India on 21-22 January, 2007. This was first such occasion for grassroots organization in Asia to organize



workshop in collaboration with Government Mine safety organization of India. Representatives from China, Cambodia, Bangladesh and Philippines attended the workshop with Indian delegates. AMRC was represented by Sanjiv Pandita, Omana George and Diana. Prof. Sun Shuhan of Beijing University participated in this workshop with other representatives from some mining companies and voluntary organizations. Mr. L. N .Bhattacharya, Chairman, ASEIT took great pains in organizing logistical and other arrangement. The delegates visited open cast coal mine on 20th January and under ground mine on 23ed January. Reasons

for accidents in mines were discussed. Situation of Occupational diseases was described by Dr. B. P. Singh and other officials of DGMS. In the inauguration session Director General of Mines Safety in India himself remained present. Presentations were made by ANROAV members Noel of IOHSD, Philippines and Bikash of Foundation for Occupational & Env Health. Bangladesh



Better Environmental Sustainability Targets (BEST) For Lead Battery Manufacturers

Occupational Knowledge International (OK International) is working to improve the environmental performance of one of the world's most polluting industries, which is affecting the health and educational opportunity of millions of children around the globe. The organization is developing an environmental recognition program for lead battery manufacturers that meet minimum emission standards and agree to take back used batteries for environmentally sound recycling. Its objective is to reduce emissions from lead battery plants and recyclers, and prevent lead poisoning through an incentive program for these companies.

It is working cooperatively with companies operating throughout the world to adopt a universal environmental standard in order to address the environmental and occupational health impacts of these facilities. Along with their Indian partners, Development Alternatives and the National Referral Centre for Lead Poisoning in India, they have initiated a multi-stakeholder process to set an environmental standard for the industry. Stakeholders have come together with common objectives to set a Better Environmental Sustainability Targets (BEST) standard for lead battery manufacturers.

Problem

Lead poisoning is the most serious environmental health threat to children and one of the most significant contributors to occupational disease. Lead causes symptoms ranging from the loss of neurological function to death depending upon the extent and duration of exposure. In children, moderate lead exposure is responsible for a significant decrease in school performance, lowering IQ scores, and is linked with hyperactive and violent behavior. Both children and adults can suffer from a range of illnesses including effects on the central nervous system, kidneys, gastrointestinal tract, and blood forming system. It also affects the reproductive system in both men and women. The annual cost of lead poisoning in the U.S. alone is estimated to exceed \$43.4 billion in children. Worldwide estimates are not available, but would greatly exceed this figure, as exposures are known to be significantly higher in developing countries.

In the past several years, most large countries have removed lead from gasoline or are in the process of phasing out its use. Lead battery production, including the mining, smelting and recycling segments, is now



Battery manufacturing plant's young neighbors exposed to hazardous lead debris dumped out their back door. (Bhubaneswar, India).

becoming the most significant source of lead exposures throughout the world. Average exposure levels in children residing near battery plants in developing countries are four times the current level of concern established by the US Center for Disease Control (CDC) and the average worker blood lead levels in these plants is approximately twice the recommended level at which workers should be removed from working around lead by the US National Institute for Occupational Safety and Health (NIOSH).

We believe that new opportunities are emerging to encourage cooperation between battery manufacturers, government and non-governmental organizations to develop industry-wide performance criteria.

International programs to audit labor conditions, coffee growing practices and forestry stewardship are gaining acceptance. OK International hopes to capitalize on the success of these models in developing an effective framework to improve the environmental performance of lead battery production facilities.

To date, there are no international environmental audit standards for lead battery production. Efforts to encourage corporate environmental responsibility are focused on very general codes of conduct (e.g. UN Global Compact), management practices such as ISO 14001, and disclosure with the Global Reporting Initiative (GRI). The BEST program may ultimately rely on one or more of these programs as a prerequisite for participation. However, they believe that their audit program will serve as a model for the next generation of corporate environmental responsibility initiatives, as it includes specific performance parameters and transparency through the release of site-specific information.

Program Description

OK International was instrumental in bringing together a diverse group of stakeholders to develop a comprehensive environmental standard for lead battery plants. The stakeholders comprised of experienced and well-respected representatives from the battery industry, government, major purchasers, and environmental organizations, will approve the initial standard. Participating facilities will later be subject to annual audits against this performance standard to ensure independent verification.

To conduct the audits, teams of independent auditors including environmental engineers, industrial hygienists and other experts will conduct on site inspections on an annual basis. Companies that meet the standard will then be eligible to place an eco-label on their products. They will promote the eco-label to assist companies marketing products made under these standards. Program costs will be borne by the participating companies with charges assessed according to production volume.

OK International is in the process of talking to all major Indian vehicle manufacturers to encourage them to require the BEST Standard for the lead batteries they purchase. This standard requires battery manufacturers to reduce emissions, occupational exposures, and to take back used batteries for recycling. At the same time they have been talking to these companies about their use of asbestos in their products. Most appear to still be using asbestos in parts.

For more information visit: www.okinternational.org

Migrant Work Accident Victim's Struggle for Compensation Claim in Thailand

ANORAV was created as a response to the problem of compensation claims filed by the victims of accident victims - first in Thailand and then in China. Recently a Human Rights organization in Thailand has successfully followed up the compensation claim for a migrant worker. This should interest all ANROAV members. With the story of Nang Noom, we present full text of ILO convention C 19 and the list of Asian countries which have ratified it.

Thirty-six-year-old Nang Noom Mae Seng spent eleven months in a Chiangmai hospital bed in Northern Thailand. On bad days, she thought about suicide; on the slightly better ones, she thought of all the places to which she could no longer walk. If she looked forward to anything back then, it was to the infrequent visits of her husband Sai Boon, whom she feared would become unfaithful and to whom she feared she was a burden.

Nang Noom has been diagnosed as permanently disabled with the inability to use 70% of her body. She doesn't really know right now what the future holds - a thought often overwhelming. She is temporarily staying in a home for the disabled established by a Thai foundation in Chiangmai. Here she is miles away from her birthplace in Burma's impoverished and volatile Shan State, where she knows life as a disabled person would be tough. In Thailand, she knows also she is just a 'temporary worker who entered the Kingdom of Thailand illegally, permitted to stay for one year pending deportation.'



Nang Noom was severely injured, almost killed, on 4th December 2006 when she was struck by a piece of a 300kg mould that fell from the 12th floor of the luxury Chiangmai Shangri-la Hotel she was helping to construct. She doesn't remember anything about the day of the accident, only waking up two weeks later in a hospital ward and hearing doctors talk about her spinal injuries and how she could no longer walk. The blow also left her with broken bones, internal bleeding, and throat damage that prevented her, for two months, from speaking. She had been working at the Chiang Mai construction site since June 2006, hired to move materials and collect scrap around the site for 130 baht (US\$4) a day (25 baht less than the minimum wage). During her time there, she witnessed accidents involving cranes, saw a worker fall from scaffolding, and watched many others step on nails; but she didn't worry about her own safety. She had purchased boots and gloves, the protective equipment few employers supply and few of the migrant workers can afford. "I was careful, I didn't think it could happen to me," she said.

Nang Noom is one of 500,000 registered Burmese migrants in Thailand, and each year since 2004, she had paid the associated costs of such status - 1,900 baht (US\$59) for a work permit and 1,900 baht that entitles her to government health care. The greater share of Thailand's estimated 2 million migrant workers are unregistered (and excluded from the government health scheme), largely because registration mechanisms are not regularly opened to Burmese migrants, but also because the system is confusing and extremely restrictive for workers. Yet, while Nang Noom is registered - fees paid, fingerprints taken, data entered into the Ministry of Interior's system-her battle for workplace disability compensation has proven that, even with that status, she is not protected from systematic governmental discrimination, nor the obfuscation and incompetence of a government bureaucracy.

Immediately after her accident, Nang Noom's employer said he would respond for all her costs until she had recovered and returned to work. He also owed Nang Noom and Sai Boon unpaid wages which he agreed to pay. When he had not made good on his word months later, Sai Boon approached him and this time he offered to give the couple 30,000 baht (US\$937) compensation and 10,000 baht (US\$312) for transport if they returned to Burma. As this was neither particularly fair nor feasible, Sai Boon made the first of many trips to the Chiang Mai Social Security Office (SSO) requesting assistance.

Thai labor law (along with obligations under a number of constitutional, regional, and international agreements ratified by the Thai Government) guarantees all workers, regardless of nationality, compensation for work-related accidents and disease. The mechanism for this is the Workmen's Compensation Fund (WCF), which is managed by the MoL's SSO and to which all employers must contribute a risk-based premium. The fund is intended as a system of insurance for both workers and employers - a safety net should occupational calamity strike. A spokesman for the SSO echoed this compensation-for-all interpretation as well when he said in a telephone interview, "all people who are working are entitled to protection under the WCF scheme. If someone is injured at work, there is an obligation to look after that worker." Or so it seemed. "Of course they must be legal," he added with a chuckle (to be fair, maybe a nervous one). He explained that if they are "illegal", the employer, and not the WCF, has the duty to look after them. The SSO has a role only in that it "can force the employer to pay the worker."

This explanation helps to explain why, in the 11 months following her accident, Nang Noom had received just 22,000 baht (US\$687) - compensation that was paid by her employer, not the WCF- slowly, begrudgingly, and only after being mandated, also slowly and begrudgingly, by the SSO (the first installment was ordered 8 months after her accident). Chiangmai SSO officials initially rejected Nang Noom's accident compensation claim on the basis that she entered Thailand illegally and had no right to compensation. After pressure however, officials acknowledged that under the existing policy of the SSO (referred to above), she did indeed have a right to compensation, thereby ordering her employer to pay her TB2, 418 (US\$76) a month (60% of the 2006 minimum wage in Chiangmai Province).

The SSO then spent four months investigating the validity of Nang Noom's "disability"; a process they made infinitely more complicated in their insistence to correspond only with Nang Noom (as opposed to hospital workers or her lawyer) via standard post. The SSO refused to inform Nang Noom or those working on her behalf as to when and for how much she would be compensated, saying that information was between the SSO and employer. And then the SSO finally cleared itself of its own obligations, in passive-aggressive consolation to Nang Noom, by ruling in July 2007 that she was entitled to 15 years of compensation (the same that she would receive from the WCF, at TB2, 418 (US\$76) per month) - it's just the employer would have to pay it. Nang Noom's employer paid her less than minimum wage - rarely in a timely fashion. He had failed to report her accident, which in itself was a violation of the MoL's own labor laws. And so it was the issue, over who should be responsible for paying migrants compensation when they are injured or killed at work, being contested now for the first time, which lies at the heart of the ongoing 'Nang Noom' case.

Nang Noom appealed the SSO's rulings in her case on the basis that they violated the Workmen's Compensation Act 1994. The SSO had removed responsibility for compensating her from the WCF and placed it directly on her employer, whilst also revealing its unwillingness to discharge their responsibility to ensure employers pay yearly dividends into the WCF for all their workers. But on 15th November 2007, Nang Noom's employers accepted the SSO's rulings, and prior to dismissing her, paid her 362,796.72 baht (US\$11,344) compensation in addition to the 22,000 baht (US\$688) she had received from him in the first 11 months after her accident. Nang Noom then filed additional labor court damages claims that are currently ongoing.

Even though Nang Noom's accident compensation claim was initially rejected by SSO officials on the basis that she had entered Thailand illegally, after pressure officials acknowledged her right to workplace accident compensation after all, and in the end Nang Noom's employer paid what has been ordered. But despite the positive compensation settlement, her case is an exemplar of the many existing cases that highlight systematic discrimination against migrant workers by the Thai MoL.



In a letter received on 16th January 2008, the WCF Appeals Committee rejected Nang Noom's appeal against the SSO's rulings denying her access to the WCF. The Committee quoted 2001 SSO circular stating only migrants with a passport and/or who were taxpayers could access the WCF, whereas for all other migrants, compensation was the responsibility of employers. As Nang Noom did not possess a passport and her employer had compensated her directly, the Committee stated

her appeal did not merit consideration. The MoL chose to ignore the Thai National Human Rights Commission's recommendations requesting revision of the WCF's discriminatory approach towards migrants and the inclusion of Nang Noom's case within the WCF system. The decision was also in contrast to statements made by senior MoL officials in August and November 2007, when they suggested revision of existing policies that linked compensation from the WCF to impractical conditions a vast majority of migrants in Thailand cannot satisfy.

Somchai Homlaor, Secretary General of HRDF, recently commented: 'Migrant work accidents and diseases are frequent in Thailand. But the MoL currently washes its hands of these victims, pushing powerless migrants into informal compensation negotiations with employers, or issuing orders hard to enforce against most employers in practice. Placing responsibility for work accident and disease compensation on employers fails most migrants and is also bad for employers, especially smaller ones, who cannot insure themselves against compensation claims. The settlement in Nang Noom's case is an exception resulting from extensive publicity. To protect vulnerable migrant work accident and disease victims, their compensation must come through WCF mechanisms.'

He continued: 'The MoL must fulfill its legal responsibilities to ensure employers pay into the WCF for all their workers, migrant or otherwise. It must also repeal the conditions that prevent at least 2 million migrant workers in Thailand from receiving compensation through the WCF. Continuing to deny migrants access to the WCF scheme defeats the scheme's main purpose to replace employer's liability for accidents and diseases of workers and also ignoring the National Human Rights Commission's recommendations. The MoL's attitude towards Nang Noom's case highlights its blatant discrimination against migrant workers, ignoring the fundamental rights of vulnerable migrants to equality of treatment under Thai law. The issues raised by Nang Noom's case will now be submitted to the domestic courts as well as to international bodies. We will fight on to bring an end to systematic discrimination faced by migrant workers in Thailand, and in order to ensure future migrant accident and disease victims' compensation claims are paid formally and according to Thai law.'

Written based on Erika Fry's article 'Failed Safety Net' in the Bangkok Post (October 28th, 2007) and with documents and assistance provided by HRDF's Making Migrant Safety at Work Matter Project.

Ratification Status of Asian Countries for Convention No. C019			
Country	Ratification date	Status	
Bangladesh	22:06:1972	ratified	
China	27:04:1934	ratified	
Fiji	19:04:1974	ratified	
India	30:09:1927	ratified	
Indonesia	12:06:1950	ratified	
Japan	08:10:1928	ratified	
Republic of Korea	29:03:2001	ratified	
Malaysia Peninsular	11:11:1957	ratified	
Malaysia Sarawak	03:03:1964	ratified	
Myanmar	30:09:1927	ratified	
Pakistan	30:09:1927	ratified	
Philippines	26:04:1994	ratified	
Singapore	25:10:1965	ratified	
Thailand	05:04:1968	ratified	
Ratified: 121	Conditional ratification: 0	Declared applicable: 0	Denounced: 0

ILO C19

Equality of Treatment (Accident Compensation) Convention, 1925

The General Conference of the International Labor Organization,

Having been convened at Geneva by the Governing Body of the International Labor Office, and having met in its Seventh Session on 19 May 1925, and

Having decided upon the adoption of certain proposals with regard to the equality of treatment for national and foreign workers as regards workmen's compensation for accidents, the second item in the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this fifth day of June of the year one thousand nine hundred and twenty-five the following Convention, which may be cited as the Equality of Treatment (Accident Compensation) Convention, 1925, for ratification by the Members of the International Labor Organization in accordance with the provisions of the Constitution of the International Labor Organization:

Article 1

1. Each Member of the International Labor Organization which ratifies this Convention undertakes to grant to the nationals of any other Member which shall have ratified the Convention, who suffer personal injury due to industrial accidents happening in its territory, or to their dependants, the same treatment in respect of workmen's compensation as it grants to its own nationals.

2. This equality of treatment shall be guaranteed to foreign workers and their dependants without any condition as to residence. With regard to the payments which a Member or its nationals would have to make outside that Member's territory in the application of this principle, the measures to be adopted shall be regulated, if necessary, by special arrangements between the Members concerned.

Article 2

Special agreements may be made between

the Members concerned to provide that compensation for industrial accidents happening to workers whilst temporarily or intermittently employed in the territory of one Member on behalf of an undertaking situated in the territory of another Member shall be governed by the laws and regulations of the latter Member.

Article 3

The Members which ratify this Convention and which do not already possess a system, whether by insurance or otherwise, of workmen's compensation for industrial accidents agree to institute such a system within a period of three years from the date of their ratification.

Article 4

The Members which ratify this Convention further undertake to afford each other mutual assistance with a view to facilitating the application of the Convention and the execution of their respective laws and regulations on workmen's compensation and to inform the International Labor Office, which shall inform the other Members concerned, of any modifications in the laws and regulations in force on workmen's compensation.

Article 5

The formal ratifications of this Convention, under the conditions set forth in the Constitution of the International Labor Organization, shall be communicated to the Director-General of the International Labor Office for registration.

Article 6

1. This Convention shall come into force at the date on which the ratifications of two Members of the International Labor Organization have been registered by the Director-General.

2. It shall be binding only upon those Members whose ratifications have been registered with the International Labor Office.

The Asian Network for the Rights of Occupational Accident Victims includes :

- Asian Monitor Resource Center (Asia-Pacific) Association for the Rights of Industrial Accident Victims (Hong Kong)
- Bangladesh Occupational Safety, Health & Environment Foundation, Bangladesh
- Chongqing Zhong Xian Self Help Rehabilitation Centre, China
- Coalition for Cambodia Apparel Democratic Workers Union (CCADWU), Cambodia
- Council of Works & Environment Related Patients' Network of Thailand (WEPT)
- Friends of Women Foundation (Thailand) General Federation of Nepalese Trade Unions (GEFONT-Nepal)
- Hong Kong Christian Industrial Committee (HKCIC) (Hong Kong)
- Japan Occupational Safety and Health Resource Center (Japan)
- Kanagawa Occupational Safety and Health Center (Japan)
- LIPS-Sedane Labour Information Center (Indonesia)
- Labour Action China (LAC), (Hong Kong)
- Labour Health Centre, South Korea
- Macao Workers & Peoples Spirit Association (MWPSA), Macao
- National Institute of Labour Protection, Vietnam.
- Occupational Health and Safety Center (India)
- Peoples Training and Research Center (PTRC) India.
- Panyu Migrant Workers Centre, China
- The Institute for Occupational Health & Safety Development (IOHSD), Philippines
- Taiwan Association for Victims of Occupational Injuries (TAVOI-Taiwan)
- Tokyo Occupational Safety and Health Center (Japan)
- Won-jin Foundation for occupational diseased (Korea)

- Building and Woodworkers International (BWI)
The Network is an alliance formally established in 1997 to forge solidarity links among OSH concerned, pro-labour, non-governmental organizations in Asia. Its aim is to fight for workers' rights for occupational health and safety.

OSH Rights, the network newsletter, is published four times a year. It is edited by the secretariat of the network.

Membership of the Network is opened to any NGOs

concerned with OSH issues in Asia with a view to asserting worker's rights. OSH related information, ideas, comments and donations are welcome. Please send your support to the secretariat of the network.

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3. Thereafter, the Convention shall come into force for any Member at the date on which its ratification has been registered with the International Labor Office.

Article 7

As soon as the ratifications of two Members of the International Labor Organization have been registered with the International Labor Office, the Director-General of the International Labor Office shall so notify all the Members of the International Labor Organization. He shall likewise notify them of the registration of the ratifications which may be communicated subsequently by other Members of the Organization.

Article 8

Subject to the provisions of Article 6, each Member which ratifies this Convention agrees to bring the provisions of Articles 1, 2, 3, and 4 into operation not later than 1 January 1927 and to take such action as may be necessary to make these provisions effective.

Article 9

Each Member of the International Labor Organization which ratifies this Convention engages to apply it to its colonies, possessions and protectorates in accordance with the provisions of Article 35 of the Constitution of the International Labor Organization.

Article 10

A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labor Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the International Labor Office.

Article 11

At such times as it may consider necessary the Governing Body of the International Labor Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.