

A REPORT
HEALTH RIGHTS OF WORKERS: ESI AND OCCUPATIONAL DISEASE
16-17 December 2001

held at

Institute of Cooperative Management for Agricultural and Rural Development, Ultadanga, Kolkata

I

The Inaugural Session on 16 December 2001 was presided over by *Dr. Purnendu Jha*, Chairman, ESI Standing Committee.

Sri Sunil Sengupta, General Secretary, UTUC in his Inaugural Address stressed on the need to underline worker's health, which he felt, is not seriously considered as yet by all concerned, within the general ambit of Worker's Rights. He drew attention to the fact that in West Bengal 73% of the working population are deprived of health rights.

Sri Naba Dutta, General Secretary, Nagarik Mancha, briefly outlined the various organisational activities pertaining to ESI and OD and the express need to come together on this issue in order to generate some sort of a joint common programme.

Sri Harsh Jaitli, PRIA, New Delhi, spoke on various aspects including problems of misdiagnosis of occupational disease, detection, lengthy process of compensation.

Dr. Ajit Narayan Bose, Member, State Planning Board, West Bengal, stressed on the need of including unorganized workers, specially the agricultural workforce within the purview of ESI Scheme.

Dr. Kunal Dutta, representing Srijani, Rishra, while delivering the Introductory Address highlighted the huge surplus generated by ESIC in terms of income over expenditure. He questioned the rationale behind bringing the ESIC under central control by an amendment in 1989. Dr. Dutta also focused on some aspects of disparity between the role and responsibilities of State and Central Governments. He ended by stressing on the various aspects, which should be deliberated upon during the two-day discussion.

Sri Samar Chakraborty, Joint General Secretary, INTUC, stated that the whereas it was true that the workers were denied their basic health rights, the Central Trade Unions had the issue of health and safety of the workers low down in their priority. He stressed on the need to concentrate on the preventive aspects of OD in workers whom he termed as the 'human machinery' of a factory.

Sri Anjan Dutta, Deputy Director, ESIC, thought that it was necessary to have a common platform, which could generate a collective initiative in order to address the loopholes of the ESIC. He invited attention to some lesser-known rights of insured workers, which included benefits of treatment after retirement. In regards to coverage of unorganized sector workers, he mentioned the head-loaders operating without any primary employers and opined that in such cases if any Civil Society Organisation came forward authority could consider covering these head-loaders under the existing ESI Scheme.

Dr. Amal Roychowdhury, Officer-in-Charge, Regional Occupational Health Centre-East, pointed out that occupational health had a much broader vista as compared to industrial health and cited, by way of example, ROHC-E studies on cycle-rickshaw pullers, grain handlers and 'gamcha' weavers.

Sri Swapan Ganguly, General Secretary, Paschim Banga Khet Majdoor Samity, said that on the one hand, the level of awareness among agricultural labourers and the existing infrastructure for protecting their health rights were both very poor. On the other hand, there is a phenomenal rise in the incidences of employment injury and side effects caused by chemicals in fertilisers, insecticides, herbicides and fungicides. He emphasized on the need for a comprehensive health policy of agricultural workers especially since an increasing number of women and children are joining the workforce.

Dr. Subhendu Dasgupta, Head, Department of South and Southeast Asian Studies, University of Kolkata, also deliberated on the untold story of violence on agricultural workers owing to pesticides.

II

The Workshop on ESI was held in the post-lunch session on 16 December 2001 with Sri Naba Dutta as Moderator, Dr. Kunal Dutta & Sri Harsh Jaitli as Initiators and Ms. Tapati Dutta and Siddhartha Sen as Rapporteurs.

A number of case studies were presented one at a time, by victims themselves or by other participants, followed by participatory discussion. Some salient points, which were touched and/or deliberated upon during the session in as follows: -

1. Paper work involved with payment of compensation in case of employment injury is immense and procedures long drawn.
2. Harassments can be reduced if single form is used for submitting claims.
3. Enquiries, reconfirmations and authenticity verification involved to check corrupt practices indulged by a few, cause untold hardships and harassment for most IPs.
4. Photo Identity Cards should be issued to all IPs covered by the ESI Scheme.
5. The entire records of the IPs should be computerised.
6. All the different forms necessary for the IPs should be made available in a website.
7. The ESI Schedule showing the list of industries to be covered by the Scheme needs to be updated.
8. Steps must be initiated by Central and State Governments to raise awareness about the ESI Scheme among workers who pay to become beneficiaries but know little about their rights.
9. Even if a unit employs only one worker, the employer should be allowed to subscribe to the scheme.
10. Problems faced by IPs will be substantially reduced if there is one administration, one authority and a one-window system. Dual control over the Scheme should go.
11. Central Trade Unions should take up a more active role and monitor the functioning of the ESI.
12. ESI benefits and IP rights should not be suspended during lockouts, closures, or layoffs.
13. Unfortunately, as per the prevailing mindset of the ESI authority, workers in general are cheats bent on fleecing the ESIC by various devious means.
14. There are some loopholes in the ESI Act, which need to be addressed urgently and collectively.
15. There is no ceiling of the amount that can be spent on a single person by way of medical benefit, but ground reality imparts a different picture.

III

The **Workshop on Occupational Disease** was held on 17 December 2001 in the pre-lunch session. Several victims including those from Chinchurgheria, Jhargram, shared their experiences with those present. Active participants included **Dr. Barun Kumar Sikdar**, **Dr. Ashok Kumar Saha** and **Dr. Arun Kumar Das** Inspector of Factories (Medical), Factories Directorate, **Dr. Debajyoti Konar**, Specialist, ODC, ESIC, Joka, Given below are some of the salient points touched upon during the discussions: -

1. Hazardous processes without proper safety measures in the unorganized sector remain mostly undetected while the workers suffer in silence. Yet, these hazardous products find their way into many organized sector units in which workers handle them without knowledge of its dangerous properties.
2. Health and safety training imparted as per law is grossly inadequate and hardly reaches the target.
3. Material Safety Data Sheets are not maintained and even Chemical Engineers employed in many concerns have been found to be unaware.
4. Any Medical Practitioner who even suspects that OD may have affected a worker is bound by law to bring this fact to the notice of the Chief Inspector of Factories. This unfortunately is a rare event.
5. Since 90% of the occupational diseases are chronic, and there are no medicinal or surgical cure, due stress should be laid on preventive aspects.
6. In case of ascertaining compensation payable, only the loss of earning capacity now is taken into consideration and not the possibilities of future risks.
7. Qualified Medical Practitioners with a rational bend of mind can very well diagnose occupational diseases.
8. There doesn't seem to be any right or forum to challenge the decision of the Special Medical Board (SMB).
9. There are many instances of irrationality in the functioning of the SMB in matters related to confirmation of OD and assessment of disability for granting compensation.
10. The constituents of the SMB do not include local specialists in OH&S or even specialists from the Regional OD Centre under the ESIC.
11. Doctors who have put up OD cases to the SMB have no scope to present their cases and are not informed if such a case is rejected.
12. It is often taken into consideration that stresses and strains in the working environment can even cause neurological problems.

13. Silicotics are 15% more susceptible to TB and hence it is dangerous to admit them to TB Hospitals without proper diagnosis.
14. Strangely enough, a large number of patients had been granted compensation for being affected by lead poisoning and the same has been withdrawn after six months.
15. The IMA and the Indian Medical Council should be included in such processes of deliberations and discussions.
16. The ESI should be more human and pro-worker.
17. Workers representatives in the various ESI bodies are expected to play a very vital role in raising awareness among workers.
18. Regional Directors of ESIC, who has such powers, may be urged to set up SMBs at regional offices as and when need arises instead of waiting for HQ to do the needful.

Sri Kali Ghosh, Secretary, CITU, and Member ESI Standing Committee, present during this entire session said, that in various industries the production process is in the process of change. Modern ones are rendering old technologies obsolete. He suggested that proper attention should be directed towards the possibilities of a new generation of occupational diseases and if so to try to identify them and collectively get them included in the Third Schedule. Secondly, he stressed on the need for a comprehensive law on occupational health and cited the two ILO Conventions (of 1959 and 1985), which states that an Occupational Health Service Authority should be created by the National Government. He suggested that all concerned should come together to compel the Central Government to implement it. Thirdly he drew attention to the fact that whereas the workers, employers and even the State Government contributes to the Scheme, the Central Government makes the law, the rules and regulations and reserves the power to change them at will. The ESIC doesn't have any powers but invests their huge surplus in GOI funds. There should be a demand stating that since the Central Government too has responsibility, they should also contribute to the Scheme. He also stated that it is a weakness on the part of the Trade Union Movement that workers have not been made aware of their health rights but despite all loopholes, everybody concerned must thrive to protect the ESI Scheme.

Sri Ashok Ghosh, State Secretary, UTUC, presented some more case studies and said that ESI has a huge infrastructure, a major portion of which remains underutilized and a lot more of it can be used by the workers if the TU's are activated.

Dr. Dhrubajyoti Ghosh, Special Environment Officer, Government of West Bengal, said that there are no environmental laws to safeguard the workers from occupational diseases. He cited the example of high incidences of aplastic anaemia among those spraying pesticides and said that OD in the rural community is rampant but systematically ignored by all concerned. He spoke about the possibilities of joint ventures with Civil Society Organisations in this direction.

Sri Dilip Banerjee, Regional Secretary, Indian Chemical Manufacturers Association said that the ICMA has compiled three volumes of MSDS covering around 360 chemicals. ICMA he said tries to raise awareness among its members a large number of whom are not to careful about dumping waste, health hazards of workers and actual danger posed by chemicals they use. ICMA was agreeable to bring out awareness leaflets/folders/booklets jointly with other Civil Society Organisations.

IV

Finally, the **Concluding Session** was held in the second half on 17 December 2001. Participants were requested to give their opinions along with the possible actions, which can be generated.

Sri Sudhangshu Bhattacharya, State Secretary, TUCC felt that the Trade unions should try to implement the proposals presented in the discussion paper, press for removal of dual control over ESIS and demand that the rules, forms and relevant documents of ESIC should be presented in an official website.

Sri Bivas Bose, AICCTU held that the Trade Unions should actively address the issue of occupational disease, joint efforts should be initiated with the active participation of Civil Society Organisations and workers representatives in the various ESI bodies should play a more active role to raise awareness among workers and activists.

Sri P G Bhattacharya, Secretary, Indo Japan Steels Union held that ESI is basically a very good scheme and the primary aim should be to compel ESI to provide all benefits it is expected to give with minimum of hassles.

Sri H P Misra of Kamdar Swasthya Suraksha Mandal, Ahmedabad stressed on the need for action to restore co-ordination among various government agencies in this field and opined that dual control must end. He said that ESI should be made a movemental issue at the national level so that necessary reforms can be brought about. KSSM, he said, was a non-affiliated workers organisation, which has, on their own, already diagnosed almost 600 Byssinosis patients among textile workers at Ahmedabad, with initial help from PRIA. Of these around 150 are currently receiving monthly compensations. Besides Byssinosis, they are also diagnosing scores of cases pertaining to noise induced hearing loss. KSSM is also expanding their area of activity to other cities in Gujarat and is working with manhole (conservancy) workers too. Workers' activists undertake campaign programmes and organise mobile clinics to perform Lung Function Tests at mill gates.

Sri Satya Dev Jadav, Secretary, Amritsar State AITUC said that till date 19 textile workers of the NTC Mills have been awarded compensation. Though he has been working, with support from PRIA, for the last couple of years in the field of OD, he is devoting a lot more of his time since April 2001 and since then he has been able to send 60 suspected fresh cases of Byssinosis, which are awaiting the next SMB. He stressed on the importance of the supportive role the ESI Doctors Union is playing and their joint common programme to diagnose OD. At the beginning, like at Ahmedabad, mobile clinics with machines and personnel provided by PRIA were organized at Mill gates. The work of organizing campaign programmes and subsequent checkups has become very easy since the principal activists are from an established trade union with credibility.

Sri Vijay Kanhere, Coordinator, Occupational Health and Safety Centre, Mumbai and Consultant on OD to PRIA, stressed on the need of demystification of technology and dissemination of necessary information at the right time to all concerned, including communication at popular level. The OHSC is a voluntary organisation formed in 1988 by a group of trade unionists, lawyers, safety engineers and social activists interested in the health of the workers and the employees and safety at their work place. The OHSC aims to assist workers and employees in their efforts to bring in a safer and healthier work place. There are about 12 independent trade unions associated with OHSC beside CTUs like AITUC and CITU. There are around 250 workers already awarded compensations for Byssinosis and Noise Induced Hearing Loss, the first cases of which were awarded in 1995 and 1996 respectively. During initial stages the activists at the checkup clinic run from the premise provided by AITUC, would only note down in details the occupational history and then send the workers to the Municipal Hospital. Presently this is functioning as a detection center thrice a month.

Sri Harsh Jaitli, PRIA said that there was express need for attitudinal change in all quarters. There was a need for a continuous search for alternatives. Workers should not be considered to be beneficiaries since they pay for the benefits. Nobody, he felt, seemed to have holistic information, and stressed on the need for the timeliness of information provided. A group at Kolkata should disseminate information with special emphasis on regularity of information on OH to trade unions.

Sri Naba Dutta, General Secretary, Nagarik Mancha before summing up the proceedings stated categorically that if any organisation sincerely takes up the issue, Nagarik Mancha would be ready to join forces. He said that a long-standing dream regarding workers health has to be given a tangible shape. He specified the actions that can be taken up: -

1. Newsletter on ESI and OHS in Bengali and Hindi for Trade Unions and workers
2. Pocketbooks on ESI and OHS in Bengali and Hindi
3. Worker friendly periodic publications in Bengali and Hindi
4. Occasional papers for General Practitioners, Government officials and ESI doctors
5. Awareness raising literature regarding chemical hazards in collaboration with ICMA
6. Posters for campaign programme on ESI and OHS
7. Exhibition set for campaign programme on ESI and OHS
8. Initiating and training workers as health activists
9. Maintaining linkage with PRIA and its partners, and disseminating information received from them
10. Setting up OD check up / OD detection center
11. Planning for a mobile OD check up / OD detection center
12. Forming an ESI Action Group with IPs and TUs
13. Evolving a loose coordinating forum in the near future, which will be able to lobby in favour of workers and act as a pressure group in matters discussed during the two day Meet.