

Bombay Dock Labour Board 1948-1994

From Insecurity to Security to Insecurity?

In pre-independent India, dock workers enjoyed little security of employment. Not only was work intermittent, there were no safety provisions while wages varied from contractor to contractor. With the setting up of the Bombay Dock Labour Board, a modicum of social security was provided for against sudden economic crises and during times of recession. Since the 1980s, however, changes that included the emergence of JNPT, subcontracting of workers, new modes of work, implementation of retirement schemes, among other measures have resulted in financial difficulties for the board. This paper deliberates on the conditions of labour that existed in ports of the pre-independence period and then seeks to analyse the impact of globalisation in context of the dock workers.

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I Introduction

The earliest attempt in India to regulate employment consisted of enactments which were concerned more with providing a steady labour force, rather than with the protection of the interests of the workers [Pillai 1947]. For instance, in the plantations, the Workmen's Breach of Contract Act, 1859, and the Employers and Workmen's (Dispute) Act, 1860, rendered workmen liable to penal consequences for breach of contract.

In spite of deplorable working conditions (see for details Mukhtar, 1930, Royal Commission of Labour, 1931, Buchanan 1934, ILO, 1938 and Mukherjee, 1948) the first Factories Act, which tried to regulate these conditions of employment was passed in 1881. It was further amended in 1922, and the legal hours of work were reduced to 10 per day and 60 per week. These amendments steadily improved the hours and conditions of work but the pace of labour legislation only gained momentum in the 1920s. The Workmen's Compensation Act, 1923, was the first social security legislation in India, following which the Indian Mines Act, 1923, the Trade Union Act, 1926, and the Maternity Benefit Act, 1929 were also passed. Statutory provision for the appointment of courts of enquiry and boards of conciliation was first made under the Trade Disputes Act of 1929. The Indian Merchant Shipping (Amendment) Act, 1931 stipulated the minimum age for the employment of children, while the Indian Railway (Amendment) Act, 1931, sought to give effect to

the ILO convention regarding the hours of work and weekly rest. The Indian Dock Labourers Act, 1934, protected dock workers against accidents while loading and unloading ships. Recruitment to the plantations was governed by District Emigrant Labour Act, 1932. It provided for food and accommodation to the workers during their journey from the village to the plantation in Assam and the right to repatriation to the village at the expense of the employer. The Payment of Wages Act, 1936, ensured payment of wages and minimum deductions for fines. The Employment of Children's Act, 1938, fixed the maximum age for admission to employment of children in railways and docks at 15 years. The Motor Vehicles Act, 1939, prohibited employment of any person below the age of 18 years. The Bombay Shops and Establishments Act, 1939, regulated the conditions of work for a large group of wage earners. The Industrial Employment Standing Orders Act, 1946, required employers in British India to frame standing orders defining the conditions of employment where 100 or more workers were employed.

However, the Labour Investigation Committee (1946) stated there existed old unsuitable structures, dirty windowpanes; walls and ceilings were responsible for unsatisfactory natural lighting. Working conditions in bigger units were, on the whole, satisfactory but the owners of smaller and unregulated units were indifferent and merely contented themselves with satisfying the letter of the law rather than the spirit underlying it. As a result, the actual provisions made in regard to

protection of workers were in several cases disregarded. Ordinarily, weekly hours ranged from 48 to 54. With regard to the crèche, the standards observed were much below what were expected. Barring some progressive employers, even textile mills employing a considerable number of women neglected crèches. Progressive employers gave subsidies to canteens either to meet losses or to sell preparations below cost. In fact, in many cases, canteens were not set up.

Given the above, independent India provided for various legislation such as the Minimum Wages Act, 1948, the ESI Act, 1948, the Payment of Bonus Act, 1965, and the Payment of Gratuity Act 1972. These legislation protected workers' claims to wages, bonus, retirement benefits, social security and protection of minimum economic well-being to ensure that economic objectives were attained and employers were provided with a stable work force. Further, the Directive Principles of State Policy envisage 'securing just and humane conditions of work'. Moreover, in order to stabilise the workforce, the First Five-Year Plan laid emphasis on improvement of internal recruiting arrangements and decasualisation schemes, which were already operating, in the textile industry and in the ports and docks.

These welfare policies advocated by the Indian state are now slowly being abandoned. The state is now considered bloated and inefficient. This means withdrawal of the state from its economic role. Deregulation, liberalisation and privatisation are supposed to ~~bring~~ ~~bring~~ the bloated state. The public sector undertakings are to be closed

down or trimmed or passed on to the private sector. Privatisation was to improve efficiency and reduce fiscal deficit. Foreign investment and import of foreign technology facilitated and the ceiling on assets for MRTPL companies abolished. To further elaborate, Esping-Andersen (1996) states that the neo-liberals consider deregulation and flexibility are roads to growth and prosperity. Heavy taxes, high and rigid wages, extensive job rights makes hiring expensive and labour market inflexible and impede job growth. The goals of the welfare state such as equality, prosperity and full employment are at odds with advanced post-industrial capitalism. Even if deregulation may increase the number of jobs, it may increase those jobs, which pay below poverty wages in the informal sector.

There is a strong plea for doing away with most if not all regulations that provide protection to the formal sector. The future prospects of the workers can be bright only if they forego most forms of security and protection. Therefore the privileged treatment enjoyed by the formal sector should be abolished and replaced by casual employment, fluctuating wages and variable hours of work. In keeping with this, the budget for the year 2001–2002 stated that "some existing provisions in the Industrial Disputes Act have made it almost impossible for industrial firms to exercise any labour flexibility. The government is now convinced that some change is necessary in this legislation". It was proposed that Chapter V-B of the Industrial Dispute Act, 1947, would now apply to industrial establishments employing not less than 1,000 workers instead of 100 and the separation compensation would be increased from 15 days to 45 days for every completed year of service. Similarly, Section 10 of Contract Labour (Regulation and Abolition) Act, 1970, was proposed to be amended to facilitate outsourcing of activities without any restrictions as well as to offer contract appointments.

The Bombay Dock Labour Board (BDLB) reflects the above changes taking place. Nonetheless, before discussing the evolution of the BDLB it would be important to deliberate on the conditions of labour that existed in the port in the pre-independence period. This paper will then elaborate and analyse the post-independence period up to the time of globalisation, and, finally, globalisation and its impact will be dealt with in the context of the dock workers.

II Conditions of Work

Port Prior to Independence

The employment of labour in the port was intermittent and casual at the time of independence. It depended upon the nature of the commodity handled, the manner in which it was discharged, mechanical facilities available, and the rate at which cargo could be cleared from the shore. Due to the intermittent character of work in the docks and the tendency of the employers to encourage larger reserves of labour to meet emergencies, there were more workers than those that could be provided with regular work [*Indian Labour Year Book 1946b*]. According to the Royal Commission of Labour (1931), there were no regulations to protect the dock workers against accidents and nor was there an independent authority to ensure adequate security. Sometimes, workers worked for as many as 25 hours at a stretch with no overtime pay. Further, children below 12 years were also employed in the port. Moreover, there was no security of employment, and the wages of these workers varied, depending on the contractors. During this period, the workers had to work in discomfort and with difficulty, and the 'tolliwallas' or 'Serangs'¹ claimed money for a full gang² even when a lesser number were on duty. There was no attempt made to decasualise dock workers. The tendency was to distribute employment among the increasing number. Moreover, though the Indian Dock Labour Act, 1934, provided for regulations pertaining to the safety of workplaces, efficient lighting of ships, hoisting machine or gear, fencing of machinery, safety appliances, precautions in handling or working near dangerous goods, first aid and so on, it was not implemented until 1948.

Decasualisation in the Post-Independence Period up to Globalisation

As far back in 1932, the GOI accepted the principle of decasualisation for port and dock workers. However, given the seasonal nature of labour, it was thought best to continue with the contract labour system. Once again, in 1939, a draft scheme was drawn up with the idea of regularising the supply of labour. However, one opinion was that registration should be restricted to labour necessary to handle

normal traffic. Another view was that the register should contain sufficient numbers to deal effectively with rush periods. The consideration of the scheme was postponed several times and then dropped, on the grounds that decasualisation schemes could not be proceeded with, under war conditions [GOI 1957a].

Soon after the termination of world war hostilities, the attention of the ports was once again drawn to the question of decasualisation of stevedore³ labour. It was now considered that all labour employed by the port authorities and by contractors for work connected with the loading and unloading of cargo should be covered. It was recognised that decasualisation at the major ports was undoubtedly an important and necessary measure of social security. The government of India took the first step towards decasualising dock workers on the basis of the recommendations of the Royal Commission of Labour (1931), as it was also felt that the availability of dock workers should be ensured at all times. The main purpose of decasualisation was to provide greater regularity of employment and to ensure that there was an adequate supply of labour. Efforts were made by the government of India to introduce voluntary schemes of decasualisation. Besides this, the dock labourers, both shore and stevedore, also pressurised the government by going on strike from November 15, 1947. The Bombay Dock Workers' Union sponsored the strike, and their demands, among others, included the abolition of the tolliwalla system, and demanded that in its place, a system of direct employment of port and dock workers be installed. The strike was called off only when the Port Trust and the Bombay Stevedores' Association agreed to abolish the tolliwalla system and directly employ the workers. In the meanwhile, in November 1947, the government introduced a bill to make statutory provisions for regulating the employment of dock workers. The bill was passed as the Dock Workers (Regulation of Employment) Act, 1948 [*Indian Labour Year Book 1948*].

III The Dock Workers (Regulation of Employment) Act, 1948

The Dock Workers (Regulation of Employment) Act, 1948, provided for the constitution of an advisory committee on matters arising out of the administration of the act. The committee consisted of not

more than 15 members representing government, labour and employers in equal numbers. The act empowered the central government in the case of major ports, and the state government in the case of other ports, to frame a scheme for the registration of dock workers with a view to ensure greater regularity of employment, and the terms and conditions of such employment. In pursuit of this, a committee representing Bombay Stevedores' Association, the Bombay Dock Workers' Union, the Central Government and the Bombay Port Trust (now Mumbai Port Trust [MBPT]), was set up by the government of India in February, 1948, to frame a comprehensive scheme regarding the registration of stevedore labour, their employment in rotation, fixation of wages, etc. (ibid).

The Dock Labour (Regulation of Employment) Scheme framed under the Dock Workers' (Regulation of Employment) Act IX of 1948 came into force in Bombay in February 1952. The stevedoring scheme was the first to be formulated. Any dock worker who, when the scheme came into force, was in the employment of an employer to whom the scheme applied, was eligible for registration. The scheme applied to stevedoring work (other than coal work), and to other categories of stevedore workers who were employed or registered for employment in connection with the handling of cargoes or in connection with the preparation of ships or vessels for the receipt or discharge of cargoes. The category of workers initially covered were 'tindal'⁴, hatch foremen⁵, winch drivers⁶ and 'khalasis'.⁷ Categories such as the foreman and charginer were excluded because they worked in supervisory capacities in confidence of the stevedores employers and drew handsome salaries. However, if any charginer or foreman from the existing force remained unemployed permanently or wished to come under the board, they could be registered with the prior sanction of the board [Labour Enquiry Committee Report 1955].

The main aim of the scheme, which came into effect in 1952, was to provide adequate number of dock workers for the efficient performance of dock work and ensure them greater regularity of employment. It provided for the regulation of wage rates, hours of work, holidays with pay and disappointment money for periods during which employment was not available for dock workers to whom the scheme applied. It also prohibited and restricted the employment of dock workers to whom

the scheme did not apply. It also made provisions for the obligation of registered workers and employers, training and welfare of dock workers and health and safety measures in places where dock workers are employed [Indian Labour Year Book 1963].

Operation of the Stevedoring Scheme

Under the scheme, the central government appointed the Bombay Stevedores' Association (BSA) as the administrative body for the purpose of carrying on day-to-day administration of the scheme. This administrative body was subject to the supervision and control of the board constituted under the scheme. The board consisted of 12 members to be appointed by the central government, including an equal number of members representing (1) the central government; (2) the dock workers; and (3) the employers of dock workers and the shipping companies. Among the functions of the administrative body was the allocation of registered dock workers who would be available for work to registered employers. The scheme provided for the maintenance of a monthly register and a reserve pool register for dock workers and also a register for employers. Under the scheme no registered worker could work for any registered employer unless he was allocated to that employer by the prescribed authority. Similarly no employer could ordinarily employ any other worker other than those allotted under the scheme [Indian Labour Year Book 1954].

The cost of operating the scheme was met out of a levy collected from the stevedores as a percentage of the gross time rate wages of the workers employed by them. The board also collected a separate levy for meeting the cost of welfare and medical facilities. With these funds, a canteen started functioning, free medical treatment was made available, and 928 tenements were to be constructed in 1956. A welfare officer was also appointed to enlarge the scope of welfare amenities for the workers [Indian Labour Year Book 1957b]. Besides this, the employees were provided with PTO facilities, 15 beds were reserved for TB patients at the Talegaon General Hospital and Convalescent Home. Unit-level classes for the benefit of dock workers under the Workers' Education Scheme of the government of India were run. The board had a recreation and reading room and provided facilities to the

cricket team, which participated in local tournaments. The board granted scholarships, on the basis of merit every year for higher studies. It also adopted the central government facilities of children's educational allowance and reimbursement of tuition fees.

However, in January 1955, the GOI appointed an enquiry committee to enquire into the working of the schemes and to recommend modifications that it considered desirable [Port and Dock Workers Report 1957a]. The committee made provision for higher minimum guaranteed wage and attendance allowance, gave disciplinary powers to the administrative body and vested powers in the board to prescribe a suitable piece-rate scheme for registered stevedore workers. Further, it enlarged the schedule of workers by the addition of the category of tally and sorting⁸ (T&S) clerks.

Existence of Two Registers

The scheme also provided for gang workers to be divided into two groups: monthly and reserve pool. The former were under the direct employment of stevedores, while the reserve pool workers (RPWs), also called daily workers, were under the direct control of the dock labour boards. The workers in the reserve pool were allotted work in strict rotation, so that all of them got an equal share of employment. The Labour Enquiry (1955) stated that the employers wanted the monthly pool should be expanded as the monthly workers were more disciplined, gave better output, got use to the nature of work done by a particular stevedore and the employer-employee relationship was well defined. Moreover, this would also remove the disparity of the earnings that caused jealousy and heart burning amongst the two sets of workers. Thus as early as the mid-1950s attempts were made by the stevedores to scuttle the pool and thus, reduce labour costs. The scheme did not prescribe any measures to regulate or control the transfer of workers from the monthly register to the reserve pool register. The Labour Enquiry Committee (1955), therefore, stated that no transfer of the workers from the monthly pool should take place on the whims and fancies of the employers or workers. Employer should be in a position to meet the ordinary fluctuations in business and workers should not merely want transfer back to the pool just because at a particular point in time he could earn

more. However, long-term losses would be considered a different matter.

Nonetheless, in January 1955 the BDLB decided that workers with higher length of service would be given preference for transfer. But, if no senior worker accepted transfer, the board would authorise the employers to create posts of higher categories such tindels and senior workers and persuade the junior workers from the pool to get transferred. If in spite of these efforts no RPW was willing to be transferred to the monthly register, the registration committee could recruit additional workers to that extent and send them to the employer concerned [BDLB 1955].

Refuge against Uncertainty

This lack of clarity with this particular aspect of the scheme continued and was exploited by the parties concerned to fit their convenience rather than follow any guidelines laid down. The workers in time of uncertainty used it as a refuge and whenever given a chance allowed their individualistic orientation to dictate their decisions. For instance, in 1954, some of the workers, who were transferred to the monthly register by seniority, stood to lose when additional gangs were created in the pool. The union at that time argued that the board should allow such workers to come back to the pool by giving a month's notice to the monthly employers and avail the opportunity for promotion in the pool [BDLB 1954]. Similarly, in periods of economic boom the employers wanted that workers be transferred to the monthly register, while, in times of uncertainty they preferred the reverse process. To curb this, in 1968 all the monthly workers were transferred to the reserve pool and the employers were not allowed to lift workers from the pool and employ them on the monthly registers [BDLB 1983c]. However, other categories of labour such as T&S clerks, supervisors, etc, continued to be employed on monthly registers and be transferred as per the requirements of the employers. For instance, in 1970 due to the fall in business, the board approved transfer of even those T&S clerks of M/s Merchant Steam Navigation Co who failed the test to the reserve pool [BDLB 1970]. Again in 1971 M/s Kanji Jadhavji & Co represented to the board the transfer of five tally clerks surplus to the pool [BDLB 1971].

Nonetheless, the scheme seemed to be a refuge for the workers against the vagaries of the market. For instance, in 1977, the supervisory staff, who had put in 20-25

years of service, were rendered surplus due to loss of work with registered stevedores such as M/s R.H. Tookaram, Hariba & Sons, New Dholera Shipping & Trading Co and Kanji Jadhavji & Co. The union then desired that the supervisory staff, dock clerks or T&S clerks be included within the scheme as these employees found it difficult to recover their Provident Fund (PF) and other legal dues [BDLB 1977]. Thus, in 1981 the board adopted the Bombay Dock Workers (Regulation of Employment) Amendment Scheme 1981 covering: foreman, charge-men, tindels of General Purpose Mazdoor (GPM), GPM, cargo supervisor, assistant cargo supervisor and dock clerks. The existing staff of the above categories were to be kept on their monthly register and surplus staff was to be transferred to the reserve pool. The amount of PF would be transferred to the board before June 30, 1981. The employees, who enjoyed more favourable service conditions than applicable to registered dock workers, would continue to do so. The GPM would enjoy the same conditions of service as senior workers with effect from January 31, 1981 [BDLB 1981]. The scheme was administered from June 1, 1983. Accordingly, on June 15, 1983 out of the applications received from the registered stevedores, 2045 were considered for registration as GPM. Besides this, in 1982, the BSA and the T&D workers union also decided to absorb the temporary dock clerks in employment of various stevedores as T&S clerks in the pool of the board [BDLB 1982].

Undermining of the Pool

However, as stated earlier the employers were averse to the idea of creating a reserve pool especially in the period of boom and attempted to undermine the workers in the pool to save cost and exploit the workers on the monthly register. They did everything to undermine the pool, including appealing to the individualistic tendencies of the workers by offering them short-term gains to entice them. For instance, in 1982, the board had a pool of 90 dock clerks. It was expected that the employers would book all the dock clerks from the pool, but not even 10 per cent of the dock clerks were booked from the pool of the board while the employers gave monthly dock clerks overtime shifts (sometimes it was three shifts at a time). Some stevedores did not even grant weekly off to its monthly staff and paid short-hand wages.⁹ They thereby, deprived the dock clerks and T&S clerks in the pool

employment and the BDLB of its levy. The board tried to enforce provisions of the scheme so that no employer employed any monthly staff for more than nine shifts a week and 33 shifts a month but of no avail. The approximate loss to BDLB was to the tune of Rs.15 lakhs. Finally, the pool was disbanded and all the dock clerks in the board pool were transferred to the registered employers [BDLB 1982].

Once again, in 1983, M/s R Tulsidas & Co, M/s Dinshaw Cooper & Sons, and M/s H.K. Joshi & Co Ltd went out of business as they tried to undercut each other; as a result arrears amounted to more than Rs 2 crore in the collection of wages and levy. Cheques issued by these stevedores were dishonoured. The defunct employers had deducted other amounts towards IT and insurance but had not deposited the amounts so deducted with appropriate authorities. As a result of this the stevedore supervisory staff made applications to be transferred to the pool by the board as job stability and security was at stake [BDLB 1983b, 1983c].

Nonetheless, the union demanded a complete transfer of all the monthly-rated supervisory staff and dock clerks to the pool of the board. Thus, the pool was formed on January 1, 1984. However, in less than a month the chairman of the BDLB, through the T&D workers, received individually signed applications by 1,017 employees to go back to their former employers. The argument put forward was that the methods of working varied from one registered employer to the other, but the actual reason was that the supervisory staff were offered tempting incentive schemes like shorthand wages, additional shifts, overtime earnings and so on. Thus the employees were transferred to their former employers with effect from February 1, 1984 as monthly-rated employees [BDLB 1984]. Those belonging to non-functional stevedores were to be transferred to monthly register of functional stevedores and those not opting for transfer (384 in number) would remain in the reserve pool. The registered employers were requested to book pool staff before putting monthly staff on overtime or shorthand wages and to submit the shift deployment position of monthly staff to the booking office. However, this was not adhered to by the stevedores and in spite of the shortage of staff the supervisory and dock clerical staff in the pool were treated on attendance allowance. Further, the employers had given promotions to their monthly staff. Finally, it was resolved that all the pool

supervisory staff existing at June 26, 1986, numbering 181, would be fully requisitioned by the registered stevedore employers.

Thus, while the pool gave security to the stevedore workers, the monthly register gave employers a leverage in relation to their employees. They therefore ensured that the supervisory staff could never form a pool like that of the other category of workers. They succeeded in their endeavour as workers fell prey to short-term gains.

Unregistered Workers Scheme

Besides the stevedoring scheme discussed above, the Labour Enquiry Committee (1955) also recommended the Unregistered Dock Workers (Regulation of Employment) Scheme, 1956. The scheme provided for the collection of requisite data with a view to initiate the regulation of employment of other classes of dock workers working in connection with the process of loading and unloading of ships on board or on shore. The committee recommended that new categories of workmen under consideration of registration should first be listed and later the question of their registration should be considered.

As a result, on April 1, 1958, approximately 1,200 Chipping and Painting (C&P) workers and 300 coal workers were listed. In June 1961 as a result of the agreement reached between the employers and the workers, the C&P workers were given the benefit of attendance allowance, guaranteed minimum wages for 12 days in the month and contributory provident fund [*Indian Labour Year Book 1963*]. Finally, in 1969 the C&P workers were decasualised under the Bombay C&P Workers (Regulation of Employment) Scheme, 1969. The strength of the coal workers declined gradually and on September 1, 1969 they were only seven in number as the aggregate of ships using coal went down and modern ships were oil fired or diesel driven [*Indian Labour Year Book 1969*].

The other category of workers, considered for decasualisation, were the foodgrain workers. In 1963, 1940 foodgrain workers and one employer were listed. In 1972, the union demanded decasualisation of listed foodgrain workers as the workers found it difficult in getting settlement in respect of wages and service conditions. Thus, the central government notified the Bombay Foodgrains Handling Workers (Regulation of Employment) Scheme, 1975. Similarly, the Bombay Unregistered Dock Clearing and Forwarding Workers (Regu-

lation of Employment) Scheme was implemented with effect from September 1, 1973, listing 1,400 workers and 288 employers for doing C&F work in the port of Bombay [*Indian Labour Year Book 1985*]. The C&F workers were decasualised under the Bombay Dock Clearing & Forwarding Workers (Regulation of Employment) Scheme, 1983.

These were the last lot workers who got decasualised and gained some security. The BDLB constituted as a result of protracted disputes was slowly being dismantled. This tripartite body with equal representation of central government, employers and workers with full participation of workers in management was considered not viable by the mid-1980. Workers from now on would lose their overtime; attendance allowance; minimum guarantee; disappointment money, stream allowance; privilege leave; sick leave; and casual leave as work got transferred to the informal sector. Thus the days of welfare as an ideology were slowly drawing to a close and the neo-liberal philosophy of free markets was taking over. The conditions of work that existed in the pre-independence period gradually seemed to resurface. A semblance of this begun to emerge even in the docks as was seen in the other sectors too [Noronha 1996, Noronha and Sharma 1999].

IV Liberalisation and Privatisation

Vaidya and Arora (1992) state that the employment trends in Mumbai port for the decade 1980-90 show a decline. In the MBPT there had been an 8 per cent increase in employment between 1980-83, but this declined by 16 per cent between 1983-90. Similarly, in the BDLB during the period 1980-85 the employment increased by nearly 40 per cent but declined by 16 per cent between 1985-1990. This was because 15 per cent of the base posts had been left unfilled, as a ban on employment had been imposed since 1983. Thus, though there was a general decline in permanent employment in all the ports, it was estimated that during the last five years contract employment had doubled. There were as many as 12,500 contract workers working in the MBPT. As a result, very often, the regular workers of MBPT and BDLB did not get enough work. The authorities interpreted this situation as having surplus labour, and from time to time, made attempts to reduce the regular employees. Further, for every worker hired,

the stevedore had to pay 200 per cent of wages as levy, and 45 per cent of wages as contribution to the Workers' Welfare Fund, therefore it was beneficial to employ contract labour. Added to this, the restrictive practices adopted by the regular workers such as or speed money (for details see Noronha, 2000) in addition to their regular wages also provided an impetus to informal sector employment.

Consequently, the use of unregistered labour by the 1980s had become rampant. In 1982, the board removed the name of M/s H P Joshi & Co from the list of employers for a period of three months as they flouted provisions of the scheme and continued to employ unlisted workers, however, the employer even boycotted the subsequent enquiry [BDLB 1982b]. Thus, employers became increasingly aggressive to this kind of action. By 1983, the list of employers with the Bombay Custom House Agents Association (BCHAA) had gone up to 476 while strength of workers had come down to 378 [BDLB 1983a]. In 1988, there were 700 odd employers and only 400 odd registered workers. The C&F employers place indents for workers and engaged 'Mathadi'¹⁰ labour. As a result, not only were the workers getting less employment opportunities but the administrative body was forced to make larger payment by way of minimum in wages and attendance allowance [BDLB 1988].

Besides this, in 1989 the union once again wanted the ministry to decasualise about 800 workers handling bulk cargo like sulphur, DAP, rock phosphate, etc, because its import had increased since 1984. These workers were working on an average of 21 days in a month but had no job security. There were a regular group of employers who were utilising them directly or through C&F agents. However, as the bulk cargo was being diverted to Nhava Sheva, the workers were not decasualised.

The Jawaharlal Nehru Port Trust (JNPT)

The setting up of the JNPT, which was envisaged as a high tech port providing state-of-the-art facilities for handling container and dry bulk traffic [Esthappanu 1989], gave impetus to the ongoing process of informalisation of labour. JNPT was originally planned as a satellite port to divert sea cargo traffic outside the city limit and thus reduce the congestion in Mumbai, but later it came to be treated as an independent port. It encompassed the complete spectrum of

modern port development including structuring of a new organisation, with modern work practices and internationally accepted productivity norms. The JNPT did not envisage dock labour and shore labour handling systems attached to existing main ports, making it more attractive to private developers. For instance, there was no Dock Labour Board (DLB) for the JNPT. The work of stuffing and destuffing containers, normally done by the port trust workers elsewhere, was subcontracted to the Central Warehousing Corporation, which in turn subcontracted to private contractors or labour cooperatives [Vaidya and Arora 1992]. Thus, not only were the BDLB workers deprived of work, but also their work was transferred to the informal sector.

Technology

Besides, the emergence of Nhava Sheva, until the beginning of containerisation, liner shipping retained the traditional labour-intensive form of production. Ramakrishnan (1999) states that container traffic had undergone an upsurge. In the year, 1980-81 it was only 1.3 lakh teu, but by 1998-99, it had reached 19.2 lakh teu. The container got a preference because it reduced the rate of turnaround time [Majumdar 1973], minimum gains expected in terms of cost were around 200 to 300 per cent [Makhijani 1968], greater protection to cargo from damage, pilferage and contamination and it also obviated the need to unpack and repack goods at transshipment points [Dubey 1985]. Moreover, Indian Ports (1969) states that the Technical Committee on Unitisation opined that if India did not advance in regard to containerisation, the container traffic would have been diverted to ports like Colombo and Singapore. Thus, it became imperative to provide the necessary facilities to safeguards for labour and employment opportunities.

On the other hand, Majumdar (1973), states that container handling required the use of mechanised equipment on a large-scale and entailed the services of a comparatively few workers. In 1969, at the Technical Committees on Unitisation, unions stated, that the cooperation of labour would be forthcoming, provided that workers were ensured their present employment opportunities. They desired that all packing and unpacking work should be handled by port and dock labour whether this was done inside or outside the docks and that it was also important that the existing size of labour gangs should not be reduced. The committee agreed that the

introduction of the container system should not cause unemployment, loss of earnings and social distress [Indian Ports 1969].

However, the government in 1987, decided to allow private contractors to carry out stuffing and destuffing of containers outside the port area. Arrangements were also made to give the necessary customs clearance at the work-sites. Besides this, container stations also came into existence in Bangalore, Ahmedabad, Pune and Coimbatore, where cargo from nearby states was collected, stuffed in containers, and sent by railways to various ports [Vaidya and Arora 1992]. Moreover, by 1978, the unions in the Mumbai Port stated that container traffic was reducing the opportunities of the workers [BDLB 1978]. Prior to containerisation, 21 workers were used for loading and unloading but with containerisation, only 11 workers were being employed. Nonetheless, Vaidya and Arora (1992) state that for filling a container, these many workers were not required. The strong unions in the port worked out manning levels and negotiated with the management, and protected both the employment levels as well as wage levels. Besides this, they also negotiated an amount to be paid to the workers due to loss of employment on account of containerisation.

However, according to the Calcutta Dock Labour Board (CDLB), since the manning pattern was not rationalised to the extent desired, plenty of workers had to remain idle especially with the advent of containerisation. As the DLB had to ensure minimum guaranteed wages for the workers, the idle workforce had a vitiating effect on the overall costing of DLB charges.

Issue of Flexibility

To overcome this problem, by 1989, the union suggested that the four schemes: stevedoring, C&P, Foodgrains, C&F be merged as the registered workers under these schemes were not interchangeable, with each scheme having different service conditions and separate lists of seniority. When the quantum of work in any of the above schemes dropped down to the minimum, the BDLB could neither deregister the workers nor deploy them under another scheme, but was obliged to pay them the guaranteed wages [Vaidya and Arora 1992]. Thus, though these four schemes had provided security of employment in the past, at present the inflexibility relating to the booking of the workers has created problems for them.

Besides this, in 1977 the union helped to implement VRS and redeploy foodgrain workers due to the decline in import. VRS was offered to the foodgrain workers as the FCI, required only 1,561 workers as against the then existing strength of 2,800 workers. However, only about 135 workers opted for the VRS and therefore 300 workers were transferred to the stevedore on April 1, 1977 and 200 to the MBPT for cargo handling [BDLB 1977]. Once again VRS was offered to foodgrain workers in 1986, however, only 500 workers opted for VRS and more than 1,000 workers remained.

Merger with MBPT

As a result of the processes just stated above, the BDLB was in great financial difficulties. The income and expenditure account relating to general levy for 1991-92 closed with a deficit of Rs 769 lakhs. In 1991-92, BDLB incurred a revenue deficit of Rs 778 lakhs. The rate of general levy (including welfare levy) was revised for all categories of stevedore workers to Rs 100 per worker per shift with effect from January 21, 1992, as compared to 210 per cent on October 20, 1987. In 1991-92, the average employment of stevedoring workers was 15.1 days in a month. Their average monthly earnings were Rs 3,085. The average incentive earned by a stevedore worker in a month was Rs 492. As on March 31, 1992, the board's account showed a net accumulated deficit of Rs 709 lakhs. The workers had not been paid the minimum guaranteed wages since September 1991. The Audit Report of 1991-92 attributed the deficit to the fall in employment during the year, which caused reduction in general levy and the increase in payment of guaranteed minimum wages and attendance allowance to the employees [Ray 1993]. Consequently, on February 25, 1994, due to the precarious financial condition of the BDLB, it had to get itself departmentalised with the port for sheer sustenance without any rationalisation of manning or change in levy structure and its staff was merged with the port trust.

Subsequently, as per the negotiations held between the ministry of surface transport, MBPT, BDLB, BSA and the unions of Bombay port and docks, the employees/registered workers of BDLB, upon absorption by MBPT, would accept all the conditions of employment as are applicable to the employees of MBPT, subject to the exceptions agreed to. However, they would

retain the separate and original seniority and promotions opportunities. Their period of service would be maintained and be given credit for all purposes. The existing monthly rated staff would be allotted to the stevedores on deputation. However, in case of loss of work to a stevedore employer to whom they are allotted they would be re-distributed by the MBPT to other stevedore employers. The present manning scales would not be affected and the central government and the MBPT would give financial help to the DLB to pay its 8,000 registered workers their dues. A voluntary retirement scheme would be announced by BDLB. All the four schemes under DLB were to be merged into one scheme, the workers will have to accept the work given to them, no unregistered workers (contract or casual) would be allowed to work in the docks.

New Impetus to Employment of Unregistered Workers

Accordingly in 1992, the MBPT decided to prevent outside workers from entering the docks, and directives were given to the concerned section that the Dock Entry Permit (DEP) for unregistered workers should not be issued.

However, the ban on fresh recruitment imposed by the government as mentioned earlier had created a condition in which the depleted workforce could not cope with the volume of work. Hence, in the name of shortage of regular dock workers, port authorities freely gave 'No Objection Certificates' to consignees of cargo to employ contract labour. The stevedores and C&F agents, in order to get their work done faster, employed contract workers, in addition to, or even in the place of, regular workers. As a result of this, the MBPT workers did not get full employment, and this, according to union leaders, is interpreted as the existence of surplus labour. Thus, even jobs that were perennial and essential parts of the work of the port were subcontracted out. Though some contract workers have been unionised, the wages so received by these workers are about 40 to 50 per cent lower than the wages of regular workers [Tulpule and Gupte 1997].

Conclusion

Prior to independence, working conditions were pathetic and there were no proper social security provisions for workers. In the case of dock workers, prior to their registration there was no security of

employment, work was intermittent, there were no safety provisions and wages varied from contractor to contractor. Since, Independence, however, GOI had written into its constitution the ideology of welfare state. The Directive Principles of State Policy sought to secure just and humane conditions of work. As a result, various legislation such as the Factories Act 1948, Employees' State Insurance Act, 1948, Minimum Wages Act, 1948, and so on, were passed to provide workers with welfare facilities. The Dock Worker Regulation of Employment Scheme, 1952, provided for greater regularity of employment. The workers now got overtime, attendance allowance, minimum guarantee, disappointment allowance, stream allowance, privilege leave, sick leave, and casual leave. Besides this, the Unregistered Dock Workers (Regulation of Employment) Scheme, 1956, provided for the listing of the Chipping and Painting, Foodgrains and C&F workers who finally got decasualised. Thus, the BDLB provided for social security as it prevented very low standards of living that existed prior to Independence. More importantly it prevented the decline in living standards and provided protection in dealing with sudden economic crises and sharp recession by providing for a reserve pool. The stevedores were particularly averse to the idea of creating a reserve pool for the supervisory staff and attempted to undermine the pool by offering short-term gains, thereby appealing to the individualistic tendencies of the workers. They wanted the workers to be transferred to the monthly register in times of economic boom while in the period of uncertainty they wanted the reverse to take place.

Nonetheless, the BDLB was an effective means of protection, both against short-term risk and long-term chronic deprivation. Thus, as Burgess and Stern (1991) state, governments' operation in the labour market can be most effective in directing social security. Private employers may not be willing, or able, to take on employees at difficult times, because they may be credit constrained, uncertain of their ability to sell the output or unable to risk hiring labour and produce for future sales. Thus, employment may fluctuate a great deal, and loss of employment is an important phenomenon affecting the welfare of the needy worldwide, as employment depends on international commodity prices and demand for exports. The BDLB provided for just this kind of security against the vagaries of the market in spite

of it being a tripartite body with limited government intervention.

But, according to Portes (2000), by the 1970s, demand-driven economic growth and state-led import substitution were challenged. Less Developed Countries (LDCs) in order to avoid economic and political marginalisation opened up their economies. Plants closing, relocations abroad, removal of subsidies and tariffs was seen as the right medicine in order to get the prices right and benefit consumers. A secure and well-paid working class ceased to be the norm giving way to a flexible production arrangement. In every region, the process of industrial downsizing, restructuring, and relocation have been justified by the threat of global competition. Further, the lifting of state labour protection and the advent of free markets gave rise to exploitative practices in the work place. Wages have been driven to the minimum. In the neoliberal era, the informal economy is seen as a refuge against deprecation of the free market. Some sections of the primary working class have put up a defence, but the threat of relocation and plant closing has kept a reduced workforce in line. Majority of the citizens and poorer classes find their protection thrown away in order to participate in the world market [McMichael 2000]. Thus, unlike what the ILO as well as many Ministries of Labour had traditionally assumed that all workers would sooner or later end up in large enterprises, or at least in the formal sector, the recent experience has been to the contrary [Ginneken 1996]. Even in countries with high economic growth, more and more workers were in less secured employment, such as the self-employed, as casual labour and homeworkers. In this regard, Rodrik (2000) states that globalisation transforms employment relationship and has also made it exceedingly difficult for the government to provide social insurance. Increased substitutability results in workers paying a large share of the cost of improvements in work condition and benefits, greater instability in earning and hours of work while their bargaining power erodes. The BDLB with the government role changing rapidly found itself in similar circumstance. The emergence of JNPT, subcontracting of stuffing and destuffing, containerisation, a ban on permanent employment since 1983, increasing use of contract workers, introduction of VRS, and lack of flexibility between schemes resulted in great financial difficulties for the BDLB. It was unable to pay the minimum guaranteed wages to the workers since September 1991. Due to its precarious

financial condition, the BDLB, in 1994, got itself departmentalised with the port for sheer sustenance, without any rationalisation of manning or change in levy structure.

A crucial policy issue, which emerges, is how lives and livelihoods can be made more secure against adversity and deprivation. Some like Dreze and Sen (1991), and Burgess and Stern (1991) state that the definition of social security should include public action not only at the state level but also by the household and community. Further the exertion of pressure by the public in demanding these rights constitute a major mechanism by which state action can be elicited and maintained. Institutions that facilitate popular dissent can facilitate the reallocation of resources to the poor. Pressure from individuals, communities, and social and political organisations may be one of the strongest reasons why governments provide social security.

In the present scenario, there seems to be little that other institutions like unions with their backs against the wall can do to force the state to provide for social security. The union, as stated above, did its best to protect employment but lost out in the end. Even the strike last year by the dock workers failed to provide gains to workers on the crucial issue of the wage settlement period.

In conclusion, it appears that while the organised workforce struggle to hold on social security provisions as every attempt is made to deny them these facilities, the informal sector workers can only dream that these benefits will one day be expanded to them. [27]

Notes

[This is a modified version of an invited paper presented at the IDPAD workshop on 'Collective Care Arrangements among Workers and Non-workers in the Informal Sector' organised between March 1-2, 2001 at the Centre for Economic and Social Studies (CESS), Hyderabad. I am grateful for the comments of the discussants - Jan Breman and Indira Hirway.]

- 1 Prior to decasualisation the contractors were called upon to supply the necessary amount of labour as each vessel got ready for loading or unloading. They were known as 'Tolliwallas' or 'Serangs'.
- 2 The number of workers in a gang would vary depending on the cargo to be handled. For break bulk cargo a full gang would consist of 11 dindal and 7 senior workers.
- 3 Stevedores are firms that undertake the contract of loading and unloading cargo on vessels from the ship companies.
- 4 Serangs approached the labourers through other middlemen called 'Tindals' before decasualisation. After decasualisation the 'Tindals' became head of senior workers working in a gang to load or unload.
- 5 They signal to the winchdriver/ crane operator

- who lift or lower the cargo from the hatch or from shore.
- 6 They operate the winches to lift or lower the cargo from the hatch. Today ship cranes have replaced the winches.
- 7 They use to prepare the derricks for work and unrigging of derricks after work, oiling of winches, assisting in fixing hatch beams and hatch covers, etc. Today with the ship cranes being used they have become redundant.
- 8 They took the tally of the number of slings loaded or unloaded from hatch to shore or vice versa on the behalf of the stevedore. They also at times do the task of sorting the cargo.
- 9 It was the amount demanded by workers when instead of booking two workers only one was booked for a particular task. For instance if a worker was booked without a reliever there would be a demand for shorthand wages.
- 10 Datta (2001) defines them as those who carry a load on the head, back, neck and/or shoulder. The Mathadi Tripartite boards regulate their labour market.

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