

BWI@WORK



The Dark Side of the Tokyo 2020 Summer Olympics

Introduction

In September 2018 an international BWI delegation visited Tokyo, Japan to investigate the working conditions faced by workers in the construction of Tokyo 2020 Olympic facilities. The delegation met with key decision-makers from the Tokyo Metropolitan Government, the Ministry of Health Labour and Welfare and the Tokyo Organising Committee of the Olympic and Paralympic Games, visited construction sites (the Canoe Slalom Course, the Olympic Aquatic Center and the Sea Forest Waterway), and held a public forum advocating for Decent Work in Tokyo 2020.¹ Workers and trade unions that attended the meeting outlined alarming concerns regarding occupational health and safety, the rights of migrant workers under the guise of “trainees” and the right to freedom of association for all workers regardless of their employment status. Specifically, the Tokyo Doken General Labour Union leaders reported difficulties in accessing the work sites to address health and safety issues as well outreach to workers.



In order to substantiate further the initial findings of the 2018 Mission, in February 2019 the BWI and its Japanese affiliate Zenkensoren conducted consultation and individual interviews with workers engaged on two key Olympic construction sites – the National Stadium and the Olympic Village – to examine working conditions and labour rights. The findings of this process were alarming:

- Almost half of the workers consulted did not have formal employment contracts.
- Dangerous patterns of overwork: workers on the Olympic Village reported working 28 days in a row, while on the New National Stadium workers reported working up to 26 days in a row.
- Some workers were made to purchase their own personal protective equipment.
- When a complaint was filed about a poorly lit area resulting in an injury to the worker, the lighting was removed in entirety and the complaint rejected because it had been brought by the union instead of the affected individual.

In addition, workers reported that migrant workers were being left to do only menial tasks, such as handling raw materials. They spoke about how delays in the construction process were causing stress amongst workers and creating poor safety practices. A far more troubling finding is that workers reported a pervasive “culture of fear” discouraging workers from making complaints on working conditions, for fear that they might be reprimanded or lose their job.

¹ The ‘International Forum on Promoting Decent Work in Mega Sporting Events: A Strategy towards the 2020 Tokyo Olympic and Paralympics in Cooperation with BWI Japanese Affiliates Council (JAC)’ was held on 28 September 2018 and brought together diverse stakeholders, including from Olympic implementing agencies, local Government, trade unions and other interested civil society partners.

The BWI Global Sports Campaign for Decent Work and Beyond

The BWI's Global Sports Campaign for Decent Work and Beyond, has passed the 10-year mark. The Campaign started in 2006 at the World Social Forum in Nairobi, Kenya, where the BWI launched the global Sports Campaign for Decent Work in preparations for the 2010 World Cup in South Africa. This was a new initiative by BWI's then predecessor, the IFBWW to use the preparations of the World Cup to not only organize workers into trade unions but more importantly to improve standards in the construction industry that would out-live the Games itself.

Since then, what was a pilot campaign has now become an institutional part of BWI's work as evident by BWI's campaigns in Brazil for both the World Cup and the Summer Olympics; 2012 Euro Cup in Poland and Ukraine; the 2018 World Cup in Russia; the 2018 PyeongChang Winter Olympics; and current work in 2020 Tokyo Olympics, as well as future work in the United States, Canada, and Mexico and for the 2026 World Cup; 2024 Summer Olympics in Paris, France; and 2026 Winter Olympics in Beijing, China.

BWI's global campaign has been focused on supporting its affiliates to improve working conditions and ensure safety and health for workers building all projects related to mega-sporting events. In doing so, part of the campaign's goal is to leave a long-term legacy of improved standards in the construction industry. It is with this in mind that BWI signed two historic agreements—one with FIFA and FIFA Local Organizing Committee Russia and the other with the Supreme Committee for Delivery and Legacy to conduct joint safety inspections of the 2018 and 2022 World Cup stadiums to ensure employment conditions and safety standards met international standards.

Since 2016 the BWI has engaged the Tokyo Organising Committee for the Olympic and Paralympic Games (TOCOG) on labour and human rights issues regarding the construction of Olympic venues and the supply chains that feed the construction effort. In July 2016 the BWI submitted comments on the proposed Sustainable Sourcing Codes, and in December 2017 it also submitted comments on the proposed Grievance Mechanisms to improve accountability; however, there was little response from TOCOG.



BWI trade union affiliates outside the Moses Mabhida Stadium in Durban, built for the 2010 FIFA World Cup.

With construction and procurement well underway and the Grievance Mechanisms still not implemented, in March 2018 the BWI submitted two complaints regarding the New National Stadium – one regarding violations of the right to freedom of association and another on health and safety at Tokyo Olympic Athletes Village. At the time none of the institutions responsible for building Tokyo 2020 facilities had implemented their grievance mechanisms, so the complaints were submitted directly to the TOCOG. The BWI considers the responses from TOCOG were totally unsatisfactory.

Tokyo 2020 construction

In an effort to reduce the overall costs, only eight new venues will be built, with a number of renovations taking place on existing venues across Tokyo. Construction of the venues is being managed by three institutions – the Japan Sports Council (JSC), which has responsibility only for the New National Stadium; Tokyo Metropolitan government (TMG), which has responsibility mostly for permanent venues; and TOCOG, which has responsibility mostly for temporary venues. Much of the construction contracts has been awarded to Japanese construction companies.

Construction was originally intended to be completed by November 2019; however, numerous delays have hampered these efforts. Completion for the Sea Forest Waterway was pushed back to February 2020, while the Olympics Aquatic Centre has been delayed even further since the company providing earthquake shock absorbers was found to have falsified reporting data. The collapse of a contractor (M-Tec Co) will also delay the completion of the Ariake Tennis Stadium facility. Currently, official estimates place progress for the majority of venues between 50 and 70 percent completion; however, the recent announcement that construction companies are struggling to get enough high-tension bolts (manufacturers are already working at full capacity)² is particularly concerning.³ Delays like this in a tight labour market will all translate into additional pressure on workers to meet deadlines, and a higher likelihood of unsafe working practices.

The JSC awarded the contract to build the 68,000-seat **New National Stadium** to Taisei Corporation in the same site as a previous stadium in Shinjuku, Tokyo. At the height of construction there were the than 3,000 workers engaged on the project, including a total of 800 different contractors. It is expected to be completed in November 2019.

Management of the **Olympic Village** construction is being jointly handled by TMG and TOCOG. As of February 2019, construction on the Olympic Village has been reported as being 73% complete. After the Games, the Olympic Village will be sold as luxury residential units.

² Julian Ryall "Japan's high-tech Olympics stalled by lack of low-tech bolts" (12 March 2019) The Telegraph. Available at: <https://www.telegraph.co.uk/news/2019/03/12/japans-high-tech-olympics-stalled-lack-low-tech-bolts/>

³ An alternative to using high tension bolts would be to deploy precision welders, however, as we will see in the subsequent sections, the severe labour shortage in the construction market is effectively closing off this option.

Poor Industrial Relations

Almost half of all workers surveyed did not have employment contracts.⁴

Japan is currently suffering from an acute labour shortage and this is particularly apparent in the construction sector, where, today there are 4.3 jobs available for every construction worker. Extraordinary demand factors like the Rugby World Cup 2019 and Tokyo 2020 Olympics as well as ongoing reconstruction work in Fukushima has led to an increase in construction activity. Its impacts are manifold. Recent reports have highlighted the alleged role of criminal gangs in illegally brokering the hiring of labourers for the construction industry, and a job-matching app for construction workers named *Sukedachi* is helping connect contractors with tradespeople. Some are even blaming the labour shortage for the growing number of bankruptcies amongst construction companies: Tokyo Shoko Research noted a 20 percent rise in 2018 of construction firm bankruptcies, with 66 percent of firms citing the inability to find workers and a further 71 percent blaming rising wage costs.⁵

This approach – blaming workers and their demand for decent wages – is unacceptable and aims to conceal a broader structural failure: that the Japanese construction industry as a whole is failing to create decent jobs. Today one in four Japanese construction workers - approximately 800,000 - are over the age of 60, and the Infrastructure Ministry predicts that by 2025 the industry will face a shortage of 470,000 to 930,000 workers.⁶ Over half of the workers interviewed had been working in the industry for more than twenty years, while almost a third had been working for forty years. The industry is struggling to attract young workers, with only 370,000 (around 10 percent) below the age of 30.

⁴ Oral contracts are acceptable under Japanese law however they are a consistent source of trouble for workers and employers alike. Under Article 15(1) a “labor contract” must “clearly indicate wages, working hours and other working conditions to the worker”, and doing this can be very difficult without a written document. If conditions differ from what is indicated the worker may immediately cancel the contract.

⁵ Tsukasa Morikuni “Labour Shortage drives more bankruptcies in Japan” (6 January 2019) Nikkei Asia Review. Available at: <https://asia.nikkei.com/Business/Business-trends/Labor-shortage-drives-more-bankruptcies-in-Japan>.

⁶ Junichi Sugihara “Japan’s construction sites seek to be foreigner-friendly workplaces” (6 September 2018) Nikkei Asian Review. Available at: <https://asia.nikkei.com/Economy/Japan-s-construction-sites-seek-to-be-foreigner-friendly-workplaces>.



The BWI believes that this shortfall is itself driven by the decent work deficit. According to Government data the average annual wage for a male construction worker in Japan is around US\$40,000—lower than the national average for all sectors. In addition, a survey from Zenkensoren found that at roughly half the construction sites in Japan workers receive no more than four days off per month. Until these conditions are fixed then workers will not be interested in joining the construction industry and the labour shortage will persist.

Japan is, for example, among the few advanced economies in the world that does not legally require workers to be given employment contracts by their employer. This issue is of particular concern in light of the increasing emergence of non-standard terms of employment. Since the Asian Financial Crisis there has been a growing market for *hitori oyakata* — self-employed workers — that fall outside the protection of the Labour Standards Act and the Industrial Health and Safety Acts. The Japanese unions including Zenkensoren have been actively campaigning to rectify this.

A related serious concern on poor industrial relations is the apparent restriction on construction unions to access worksites to outreach to workers and promote safe and healthy workplaces. Two union leaders of Doken General Labour Union reported during the September 2018 International Forum that union organisers were harassed and intimidated by authorities when they attempted to reach out to workers in Tokyo National Stadium. Same union leaders reported that there had some cosmetic improvements every time the union report about poor working conditions, but things eventually deteriorate over time. If the unions are allowed to constructively work with the companies, the working condition as well as the safety and health of workers will undoubtedly improve.



Dangerous overwork continues

Workers on the New National Stadium reported working 26 days in a single month, and workers on the Olympic Village reported working 28 days in a single month.⁷

Almost a third of workers interviewed had been working in the construction industry for forty years or more.⁸

Japan is renowned for the practice of overwork, and the construction industry is one of the most severely affected industries in this respect. According to Labour Ministry figures there were 21 deaths from *karoshi* in 2017 in the construction sector, the second highest of all sectors.⁹ The BWI highlighted this concern in our initial communications to TOCOG in 2016, noting that Tokyo 2020 is the opportune time to put measures in place to improve this situation, particularly in light of the extreme pressure that often characterises the construction phase prior to mega sporting events.

The severity of this problem came to light in April 2017 when a 23-year-old male working for Sanshin Corporation (a subcontractor to the Taisei Corporation) managing ground works on the New National Stadium tragically took his life. According to the site security log he had clocked 190 hours of overtime in the month prior to his death,¹⁰ leaving a note saying, “This is the only answer I could come up with after my body and soul have reached their limits.”

In a subsequent review of the site, labour officials found that illegal overwork was being practiced at nearly 40 companies; workers at 18 companies did overtime exceeding 80 hours per month, while several of them exceeded 150 hours. In October 2017 the Labour Standards Inspection announced that the man’s death had been recognised as *karoshi* - death by overwork.¹¹

Following the tragedy, JSC officials vowed there would be no more *karoshi* fatalities in proceeding with the construction works.¹² Despite this strong rhetoric, the trend of dangerous overwork still appears to be continuing. The consultations with workers reveal that workers on the New National Stadium were working up to 26 days in a month, while workers on the Olympic Village cited that they were working up to 28 days in a month. Working 28 days in a month certainly constitutes a violation of Japanese law, as well as the Sustainable Sourcing Code (see footnote 7). Based on the consultations with workers, the BWI is very concerned that sufficient efforts are not being implemented to prevent further deaths in the future.

On 1 April 2019 new rules came into force setting a legal cap on long hours, limiting overwork to 45 hours a month and 360 hours a year in principle but the work hours can be extended during busy periods, effectively doubling the annual cap). The maximum fine for violating these rules are set at a mere ¥300,000 (\$2,700).¹³ Of major concern; however, is the fact that the

⁷ According to provision (4)(vii) of the SSC suppliers are obligation to “not set illegally long work hours for workers”. Working 28 days a week would certainly constitute a violation of Japanese law, with Article 35(1) of the Labor Standards Act requiring workers to get at least one day off per week.

⁸ While this in itself does not constitute a violation of any law, it indicates that the industry is dominated by ageing workers.

⁹ Koichi Murakami “Death from overwork still leaving its stamp on corporate life” (20 July 2018) The Asahi Shimbun. Available at: <http://www.asahi.com/ajw/articles/AJ201807200001.html>

¹⁰ “Tokyo Olympic stadium worker’s suicide recognized as being related to overwork” (11 October 2017) The Japan Times. Available at: <https://www.japantimes.co.jp/news/2017/10/11/national/social-issues/tokyo-olympic-stadium-workers-suicide-recognized-related-overwork/#.XLV3DpgzZPY>

¹¹ Ibid.

¹² Kwiyeon Ha “Japan vows no more deaths from overwork while building Olympic arena” (13 October 2017) Reuters. Available at: <https://www.reuters.com/article/us-olympics-2020-stadium-death/japan-vows-no-more-deaths-from-overwork-while-building-olympic-arena-idUSKBN1C111T>

¹³ “Japan debuts legal cap on long work hours under labor reform law, but for now only big firms affected” (1 April 2019) The Japan Times. Available at: <https://www.japantimes.co.jp/news/2019/04/01/business/japan-debuts-legal-cap-long-work-hours-labor-reform-law-now-big-firms-affected/#.XKSbRpgzZPY>

construction has been excluded from these rules for five years, excluding the Tokyo 2020 construction period altogether. Even if the construction industry was covered, the fact that coverage of the new law is currently limited to major firms could exclude much of the construction industry anyway, where many workers are hired through subcontractors.

Overwork itself is no solution to the labour shortage. It has clear impacts on worker's health and quality of life, create a dangerous worksite, and is often associated with inferior worker performance. Having already endured one fatality, the Tokyo 2020 institutions---TOCOG, TMG and JSC---have a responsibility to show leadership on this matter. In April 2018 the Japanese Government announced that it was planning to promote a five-day workweek for construction workers involved in public works as part of its work-style reform initiative, and assigned funds to work towards that target.¹⁴

Two fatalities and still not enough action

Two construction workers interviewed had to purchase their own safety equipment.¹⁵

Shortages and delays creating an unsafe work environment.

Occupational health and safety have been a major concern on Tokyo 2020 construction sites, and there have already been two fatalities on Tokyo 2020 construction sites. The first *karoshi* fatality is discussed in the previous section, while a second fatality was the subject of one of the two complaints submitted by the BWI to TOCOG in March 2018.¹⁶ While it received next to no coverage outside of Japan, in January 2018 a worker was crushed to death between a tower and metal scaffolding.

Despite being Asia's most developed economy, in 2016 there were 323 Japanese construction worker fatalities, an average rate of 4.5 per 1,000 per year, and 5.9 per 1,000 per annum for construction workers with less than three years of experience. Of equal concern is the fact that in 2016 there were 15,129 injuries that required taking medical leave of absence, some of which are thoroughly debilitating.

In light of these statistics, it is extremely alarming to hear that some workers were compelled to purchase their own safety



14 "Japan to promote five-day workweek for construction workers hired for public works projects" (29 April 2018) The Japan Times. Available at: <https://www.japantimes.co.jp/news/2018/04/29/national/japan-promote-five-day-workweek-construction-workers-hired-public-works-projects/#.XKS0KpgzZPY>

15 According to provision (4)(viii) of the Sustainable Sourcing Code (SSC) there is an obligation that suppliers "create physical and mentally safe and healthy working environments and conditions ... in accordance with laws and ordinances relating to health and hygiene." Under Article 3(1) of the Industrial Health and Safety Act, employers are required to "ensure the safety and health of workers in workplaces through creating a comfortable working environment and improving working conditions", an obligation which has been interpreted to include the provision of personal protective equipment for workers.

16 Available at: <https://www.bwint.org/web/content/cms.media/888/datas/BWI%20Complaint%20No.%201%20Construction%20Worker%20Fatality%20in%20Tokyo%20Olympics%20Village.pdf>

equipment. The workers concerned were (likely) *hitori oyakata* — self-employed workers — and therefore legally outside of the coverage of labour law (such as the Labour Standards Act and Industrial Health and Safety Act). The number of self-employed workers in the construction sector has grown significantly in the last decade; however, this sham legal status should not be used as a mechanism to deny workers of their basic rights. The responsibility to provide safety equipment should nevertheless lie with the principal employer.

All workers through the consultations, noted that on the site, there is an operational occupational health and safety committee on site, as well as a full-time qualified safety manager at all times. Since trade unions have limited participation in the OSH committees, they are not able to fully monitor the safety and health standards and regulations at the worksite. Workers noted that on at least one occasion on the New National Stadium a self-employed worker, who had signed no employment contract was assigned tasks that he was not given adequate safety training for the job.

Safety risks exacerbated by labour shortages and delays

The combined impact of a delayed construction schedule and a tight labour shortage exacerbate existing safety issues in a number of ways. First of all, overwork itself creates severe safety risks, as fatigued workers are more likely to cut corners or make mistakes, putting themselves and their fellow workers in danger. One worker commented that he felt he is “always being pushed to meet the deadline,” while another said, “It’s not worth your life for this.”

In addition, delays on building materials and labour makes the process of managing construction itself more difficult. Workers told us that they often end up working under building materials hoisted in the air for long periods of time due to limited manpower to unload them properly. Workers stated that in one instance on the Olympic Village where a load of concrete remained hoisted in the air for some time despite strong winds precariously blowing the payload around, putting workers on the site in severe danger. The foreman did nothing to alleviate the situation.

“Strong winds blew over the site and I felt danger as the concrete swayed overhead. The site foreman just walked by as if nothing happened.”

Workers also noted that they have become reluctant to raise their voice because managers do little to respond. “You point the issues out and request improvements, but this falls on deaf ears.” According to the workers, part of this problem is likely connected to the fact that the site foremen being dispatched neither have nor has sufficient training to do the work. “In the past the site foremen would, for example, think about the process after the building structure before giving the instructions for it. There are fewer people now able to see how they all fit into the big picture ... So, as construction sees more delays, they inject more workers and end up having to force people to work in a dangerous environment.”

These comments demonstrate a serious failure in labour management—not only are workers being improperly and inefficiently deployed, they are being put in danger by poorly trained site managers, increasing the overall risk to workers on the site.

Migrant workers' rights

Workers raised concerns that migrant workers were given only very limited roles on Tokyo 2020 construction sites, such as shifting raw materials around the construction sites.

Workers reported one case where an employer went bankrupt with unpaid wages owing to migrant workers.

Japan's immigration regime has traditionally been extremely closed; however, an ageing population and rising demand for labour is putting this regime under severe pressure. The number of migrant workers in the construction sector almost tripled between 2014-2017, with numbers now reaching around 55,000. In the construction sector most of migrant workers are engaged through the Technical Intern Training Program (TITP). The TITP programme is supposed to provide training for migrant workers in key sectors with labour shortages; however, there has been widespread criticism of it as an exploitative scheme intended to render cheap labour.

TITP interns must be paid the legal minimum wage but it is rare that they are paid more, and this is currently set at less than half the average annual wage for construction (~US\$40,000).

According to recent testimony at the Diet (the lower legislative assembly) a record 4,279 trainees fled their workplaces in the first half of 2018. Two-thirds of those that fled in 2017 were

TITP Programme

Workers under the TITP programme do not enjoy the same rights and working conditions as Japanese workers – their wages are on average around a third of those paid to Japanese workers, they do not enjoy the same benefits, and, crucially, they do not enjoy the rights to freedom of association and collective bargaining.

The TITP programme has been the subject of significant criticism, including the UN Committee on the Elimination of Racial Discrimination and the UN Human Rights Committee. The 2017 US State Department's Trafficking in Persons report notes that the "possibility of human trafficking for labor exploitation under the Technical Intern Program" still exist.

According to research from the Global Alliance for Supply Chain Foundation, a Vietnamese TITP intern could be compelled to pay as much as JPY1.2 million (approximately US\$10,800). To repay their debts, workers often take on excessive overtime. Since workers' visa status are tied to their employer, there are numerous reports of interns fleeing their workplaces and entering the black market.



paid below the minimum wage, and roughly 10 percent worked on average 80 hours or more of overtime per month.¹⁷ While they were unable to elaborate in detail, workers that were surveyed noted that when a contractor working on an Olympic site collapsed the migrant workers working at the site were not paid their due wages covering several months.

Workers also noted that often the migrant interns were only given menial tasks to do, such as shifting raw materials. This is due to the stated purpose of the TITP programme, which is to provide trade skills training for migrants. Shifting raw materials is a task that should be carried out with forklifts or other appropriate equipment. Migrant workers could be more effectively contribute on the construction site, if they are given assignments that would further build their trades skills. In failing to do so, this is indicative of the long-term vision and sustainability of employing migrant workers in the construction sector in Japan.

Lower safety standards for migrants

Existing research indicates that TITP interns die at twice the rate of other workers in the construction sector, and therefore particular steps must be taken to guarantee their safety. When the BWI delegation met with Tokyo Metropolitan Government (TMG) representatives on labour in September 2018, it was claimed that there were no migrant workers on their Tokyo 2020 construction sites.

The next day the BWI Mission visited the TMG-managed Canoe Slalom Course, where site management reported that there were indeed a number of migrant workers on the site. At the same time, it was reported that they (migrant workers) spoke no Japanese and communication was a challenge, particularly on OHS matters. Under Japanese law, employers must set up necessary procedures to ensure that health and safety procedures are established in a way that foreigners can understand.¹⁸ The interviews indicated that this problem was not consistent across both surveyed sites, as other migrant workers noted that there was no special provision to translate safety materials or procedures into languages other than Japanese.

Special skills worker visa

In response to both the labour shortage and criticisms of the TITP programme, in 2018 the Japanese Government implemented a new “special skills” visa category which has opened up the possibility for a limited number of (currently set at around 40,000) construction workers to migrate to Japan.¹⁹ Some of these workers will be able to switch employers, lowering the possibility of labour exploitation. It is noted that recently the Japanese Government has signed an MOU with the Nepal Government to promote this migration.

Although, the BWI welcomes this decision, the scale of the proposed changes is not sufficient to alleviate the existing labour shortage. In addition, we are concerned that the existing treatment of technical interns could set a precedent for the treatment of workers in the special skills programme. TOCOG, TMG and JSC should take special precautions to involve trade unions in both countries of origin and in Japan to ensure that during the labour migration process migrant workers are aware of their rights and have mechanisms available to them to safeguard those rights as issues arise.

¹⁷ “67% of missing foreign trainees worked below minimum wage: opposition parties” (4 December 2018) Mainichi Japan. Available at: <https://mainichi.jp/english/articles/20181204/p2a/00m/0na/008000c>

¹⁸ Article 9 of the Employment Countermeasure Law.

¹⁹ “Battling serious labour shortages, ageing Japan announces the sector where it needs tens of thousands of foreign workers” (15 November 2018) South China Morning Post. Available at: <https://www.scmp.com/news/asia/east-asia/article/2173271/battling-serious-labour-shortages-ageing-japan-announces-sectors>

Access to Justice

Workers had not been informed about the existence of the Sustainable Sourcing Code of the Grievance Mechanism.

A complaint submitted to the JSC Grievance Mechanism was rejected because it was submitted by the union on behalf of an individual.

In February 2018 when the BWI filed two complaints directly to the TOCOG, none of the institutions responsible for project implementation---TOCOG, TMG or JSC---had implemented Grievance Mechanisms yet. A little over a year later, the Grievance Mechanisms have been established; however, they are still riddled with issues. Workers have not been briefed on their existence (or how to use them), and those complaints that have been filed are not providing satisfactory outcomes.

The fact that workers on the site had not been briefed as to the existence of the Code and Grievance Mechanism (GM) is a major concern, and, raises questions as to its value altogether. It is true that Japan has a developed legal system that should be able to respond to the kind of labour issues that workers experience on-site. Since many workers are reluctant to raise issues with legal authorities, the need for the Sustainable Sourcing Code and GM is not altogether unfounded, and, can provide an alternative forum for workers to raise their complaints related to employment and health and safety issues.

The fears of workers losing their job or being otherwise punished are not altogether unfounded. The survey highlighted the “climate of fear” that was prevalent on the Tokyo 2020 construction sites, particularly the New National Stadium site. Workers stated that following the April 2017 fatality on the site security had become much tighter and management strictly restricted photographs being taken on the site. While this is in line with certain requirements of the Sustainable Sourcing Code,²⁰ this may hinder the ability of workers to collect evidence and raise issues in a manner that gets them effectively addressed.

Of equal concern is the dismissal of a complaint regarding the New National Stadium regarding an accident that occurred in January 2019. Work was being undertaken in a poorly lit area of the construction site; however, when a JSC team came to inspect their area the temporary lighting was removed so as to conceal the insufficient lighting. As a result of removing the poor lighting, a self-employed worker was injured, requiring six stitches. A complaint was filed on 28 January to the JSC regarding the incident by the Tokyo Doken General Labour Union (affiliated to Japanese construction union Zenkensoren) but much to the dismay of the union, the complaint was summarily dismissed because the complaint was filed by the union and not the affected individual. This constitutes a serious violation of the right to be represented, a core component of the right to freedom of association.²¹

Three Unusable Mechanisms

In terms of access to justice, it makes little sense to establish three separate grievance mechanisms. Workers and affected communities, particularly those further down the supply chain than those in the construction sector have only limited knowledge to work out which of these three institutions to direct their complaints. In addition, only the TOCOG Sustainable Sourcing Code is available

²⁰ Article (5)(vi) on “proper management of information” requires suppliers to establish “systems for preventing information leakage according to the level of information security risks...”

²¹ Article (4)(ii) of the Sustainable Sourcing Code requires that suppliers “secure the fundamental rights of workers ... such as freedom of association and the right of collective bargaining.”

in English, as the TMG and JSC Grievance Mechanisms are only in Japanese. Regardless, these GM systems are difficult to find and access on the website of the respective institutions.

This creates major problems to both migrant construction workers, as well as workers in the supply chain. Regarding the latter, this constitutes a clear violation of the Sustainable Sourcing Code.²² Considering, for example, that the vast majority of timber procured for Tokyo 2020 construction projects comes from countries where neither Japanese nor English are the primary languages (like Malaysia and Indonesia), the likelihood that workers and communities will be able to access justice is extremely low.

Make unions part of Tokyo 2020

In our initial communications with TOCOG in early 2016, we outlined the positive experience of past mega-sporting events like Sydney 2000 and London 2012, where trade unions were actively involved in the construction process throughout. In both instances this resulted in a higher level of worker satisfaction, stronger living standards, fewer accidents, and a cleaner supply chain (with flow-on effects for the rest of the sector). In both cases the construction projects were delivered on-time. This kind of cooperation – between the Olympic agencies, the construction companies and the workers themselves made for an enduring and successful partnership.

Despite our recommendations, the opposite appears to have happened. In many ways, the Tokyo construction labour market seems to defy logic: labour scarcity should lead to increase in wages; however, they remain effectively stagnant, while workers are compelled to do punishing overtime, putting themselves and their co-workers at serious risk. The BWI believes the root cause of this is the decent work deficit: the exclusion of unions to have full access to the sites, restricted engagement in health and safety matters, and weak overall input into the conditions that determine workers' lives and livelihoods.

Workers' right to join or form unions is in theory protected by the Sustainable Sourcing Code and Grievance Mechanisms. However, with little practical understanding of the existence or operation of those mechanisms, not to mention the weak response that BWI and Zenkensoren unions have experienced when lodging complaints, means that in reality these are simply pieces of paper without relevance.

The International Olympic Committee has a political responsibility to ensure that TOCOG (and in turn TMG and JSC) do more to ensure labour and human rights are protected. BWI's overarching recommendation, therefore, is to ensure that trades unions are fully and constructively engaged and consulted throughout the decision-making process in the construction of the Tokyo 2020 facilities. The first and most important step in this regard is to actively promote freedom of association and collective bargaining for all workers regardless of their employment status in all Tokyo 2020 construction sites with a view to lifting wages, restricting overtime and making worksites safer.

Without swift action, the Japanese Government will have missed a once-in-a-lifetime opportunity to safeguard the future development of its construction workforce and ensure sustainable and long-term institutional changes. Trade unions in Japan are ready to take the necessary steps to create a viable career path for both young Japanese workers entering the construction industry, and migrant workers that will come to Japan in the coming years to seek a better way of life.

²² Article (4)(ix) requires suppliers to "establish systems for enabling foreign workers to easily file complaints and ask for consultation, and to collaborate with authorized labour-related organisations."

Recommendations

1. Japanese Olympic agencies and construction contractors must allow unions to freely exercise the right to self-organisation and collective bargaining and be represented in work place occupational safety and health committees to improve working conditions.
2. TOCOG, TMG and JSC should extend the new overtime limits (45 hours per month, 360 hours per year) to cover all Tokyo 2020 construction sites.
3. Strengthen worksite OSH committees with direct and active participation of union representatives
4. Establish link between worksite OSH committees with the TOCOG OSH Council, a tripartite body which meets regularly to advance worker safety in the Tokyo 2020 construction process.
5. Undertake immediate joint inspections on the safety conditions on the remaining unfinished Tokyo 2020 construction sites, with participation of BWI to implement concrete OSH reforms where identified.
6. Strict enforcement of TITP intended training component for interns; ensure proper wages and working conditions.
7. Guarantee the rights of all migrant workers to unions and facilitate this communication at the beginning of their employment.
8. Make it a requirement that all contractors engaged in Tokyo 2020 construction or supply chain educate workers on the existence and operation of the Sustainable Sourcing Code and Grievance Mechanism
9. Create a single desk for all complaints relating to Tokyo 2020 projects that liaises with TOCOG, TMG and JSC depending on the complaint. That desk must be available in multiple languages.
10. Have all complaints submitted to TOCOG, TMG and JSC reviewed by an independent third party.
11. Ensure that the TMG and JSC Grievance Mechanism systems are available in English.



The Dark Side of the Tokyo 2020 Summer Olympics

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