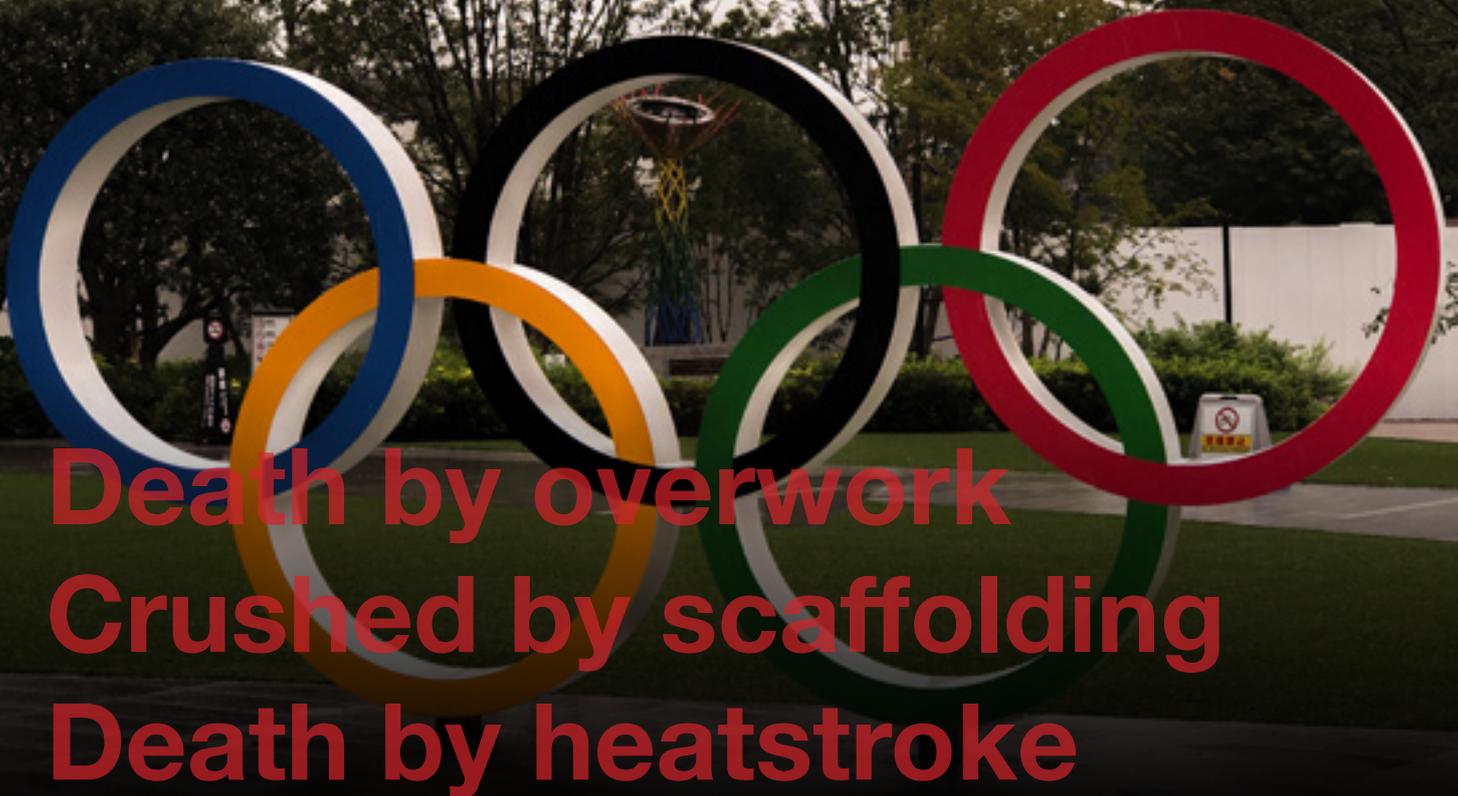


**BWI@WORK**



**No more deaths in  
Tokyo 2020**

## Introduction

BWI released a study on 15 May 2019 on labour conditions at the building site of the Tokyo 2020 Summer Olympics. It found dangerous practices, including overwork. It also showed that there was poor access to justice. Problems of working conditions and rights are creating a ‘culture of fear’ amongst workers.<sup>1</sup> The report was based on interviews with workers working on the New National Stadium and Olympic Village, conducted in February 2019. These interviews followed a September 2018 mission of union representatives from across the globe, focussing on ensuring decent work for Tokyo 2020 construction workers.

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In July 2019, Tokyo 2020 organisers released a construction progress report indicating that more than half of all new permanent venues had been completed, including the

Musashino Forest Sport Plaza, Yumenoshima Park Archery Field, Sea Forest Waterway, Kasai Canoe Slalom Centre and Oi Hockey Stadium. New sites still under construction included the New National Stadium, Ariake Arena, Tokyo Aquatics Centre, as well as the Olympic Village, and a number of renovation projects remain in progress.



While the implementing organisations - Tokyo Organising Committee of the Olympic and Paralympic Games (TOCOG), Tokyo Metropolitan Government (TMG) and the Japan Sports Council (JSC) - have been praised for their apparent readiness for the Games, workers are feeling the heat. With deadlines looming, there are continued reports of the excessive pace of work and pressure on workers. In August 2019 as a record heatwave struck Japan, a third worker died while working on a Tokyo 2020 Olympic construction site.<sup>2</sup>

In August and September, the BWI conducted further interviews with workers on four Tokyo 2020 Olympic construction sites, finding that many of the same concerns remained, while other issues have surfaced.

### Workers noted that:

- **The combined impact of work pressure overwork and heat stress is still putting workers’ lives at risk;**
- **Rampant multi-layer subcontracting is putting downwards pressure on workers’ wages;**
- **Many workers still don’t have employment contracts; and**
- **Access to justice is still weak, and restrictions imposed by Tokyo 2020 organisers are discouraging workers from filing complaints.**

<sup>1</sup> “The Dark Side of the Tokyo 2020 Summer Olympics” (15 May 2019) Building and Wood Workers’ International. Available at: <https://www.bwint.org/web/content/cms.media/1542/datas/dark%20side%20report%20lo-res.pdf>

<sup>2</sup> Elaine Lies and Jack Tarrant “Olympic construction worker dies as Tokyo swelters, heatstroke suspected” (9 August 2019) Reuters. Available at: <https://www.reuters.com/article/us-olympics-2020-temperature/olympics-construction-worker-dies-as-tokyo-swelters-heatstroke-suspected-idUSKCN1UZ040>

The tragic death of a 50-year-old construction worker on Thursday 8 August 2019 from heatstroke underscored the ongoing safety risks in construction for the Tokyo 2020 Olympics. The worker, employed on the Tokyo Big Sight (an exhibition centre that is being renovated to serve as a media centre during the Olympics), is the third Olympics-related construction fatality.<sup>3</sup> Between 5-11 August, 12,571 people in Japan were admitted to hospital, due to a heatwave, 1,465 of those in Tokyo alone.<sup>4</sup>

Japan may have experienced a record heatwave in the Summer of 2019; however, these conditions are becoming increasingly common. In 2018 Japan also experienced record temperatures, leading to over 1000 fatalities that year.<sup>5</sup> High temperatures are often amplified significantly in enclosed spaces on construction sites. In our interviews some construction workers on Tokyo 2020 sites complained of working in 40°C+ environments. While morning meetings on most sites make reference to the heat stroke index, workers said that, in reality, work usually continues regardless of whether the measurement exceeds safe limits. Workers said that the pressure to complete work means that they do not feel like they can raise these issues without being seen as slowing down work.

Other jurisdictions have better systems for addressing these risks. In Australia, for example, there is a clause in enterprise-level bargaining agreements that provides work stops when temperatures reach 35°C, and the union urges the safety and health representatives to consult with management before temperatures reaching that level.<sup>6</sup>

Japan is considered to be one of the countries to be the most affected by global warming. Japanese construction sites need to adapt to this reality. Workers indicated that some countermeasures had been taken this year to minimise the risk of heatstroke, including making cold drinking water and free sports drinks available. However, workers still suffered from the extreme heat, reporting that at least three workers from one site were taken away by ambulance.

As well as increasing the risk of accidents, heat stress reduces labour productivity,<sup>7</sup> meaning it takes more effort to do the same job. This concern becomes more serious when workers are removed from the site.

## Japan's Industrial Safety and Health Act

*The following provisions of the law are relevant to OHS concerns.*

**Article 3:** Businesses must not only observe the minimum standards for preventing occupational accidents, but also ensure the safety and health of workers in the workplace through the realisation of comfortable work environments and improvement of working conditions. And business operators should try to cooperate with the Government's measures to prevent occupational accidents.

**Article 24:** The employer must take necessary measures to prevent accidents arising from the work behaviour of workers.

Tight work schedules - particularly in lower levels of subcontracting - may be said to violate the **Construction Industry Law** and **Public Works Quality Assurance Law**. It requires the prohibition of contracts with extremely short construction periods, requires appropriate contract prices and schedules, and proper schedules in subcontracting contracts as well as sharing information on construction progress.

3 The first fatality occurred in July 2017 when a 23-year-old male managing ground works at the New National Stadium committed suicide after clocking in 190 hours of overtime in the previous month. This fatality was later ruled karoshi – death by overwork. The second fatality occurred in January 2018 when a worker was crushed to death between a tower and metal scaffolding.

4 See [https://www.fdma.go.jp/disaster/heatstroke/items/heatstroke\\_sokuhouti\\_20190805.pdf](https://www.fdma.go.jp/disaster/heatstroke/items/heatstroke_sokuhouti_20190805.pdf)

5 Daisy Dunne "Japan's deadly 2019 heatwave 'could not have happened without climate change'" (30 May 2019) CarbonBrief. Available at: <https://www.carbonbrief.org/japans-deadly-2018-heatwave-could-not-have-happened-without-climate-change>

6 "35°C, That's Enough – CFMEU Hot Weather Policy" (21 January 2016) Construction, Forestry, Mining and Energy Union. Available at: <https://vic.cfmeu.org.au/news/35%C2%B0-c-that%E2%80%99s-enough-cfmeu-hot-weather-policy>

7 Wen Yi and Albert P. C. Chan "Effects of Heat Stress on Construction Labor Productivity in Hong Kong: A Case of Rebar Workers" (September 2017) Int J Res Public Health 14(9). Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5615592/>

Weather created several other safety risks. One worker said that concrete had been poured on rainy days, undermining the strength of the finished product. Sudden weather changes and poor management had also caused sloppy work, meaning that tasks – for example interior construction and finishing tasks that required around 100 hours work – had to be redone. For interior work this is particularly troublesome because it comes at the very end of the construction process, compounding delays from previous parts of the construction cycle.

## Labour shortage persists

Pressure related to extreme heat has aggravated the ongoing dangerous overwork problem due to severe, chronic worker shortage in Japan's construction industry. This has placed significant pressure on construction companies to complete work. Reports continue of organised criminal syndicates recruiting homeless people to work on Olympic construction sites, including the Olympic Village.<sup>8</sup>

With only a few months of construction time remaining on Olympic sites, many workers reported that they were regularly working overtime and were expecting to do more in the coming months. Workers interviewed said that worker shortages meant that they still had to work on the weekends and public holidays on a regular basis. One worker spoke of working as late as 10pm, while another said that he was unable to take sick leave and only was able to take five days of annual leave a year.

Several workers employed at the Olympic Village said there were now insufficient toilet and elevator facilities (these were previously on every second floor). For male workers, toilets were only provided on the 8th and 14th floors of one building, while for female workers these were only found on the ground floor. Workers from another Olympic Village building under construction reported the same scarcity, but mentioned the toilets were on the 6th and 10th floors.



Elevators were reserved for the transport of tools and equipment. That meant that workers had to descend or ascend multiple flights of stairs to use the facilities. This also exposed them to the risk of tripping on cables. This also accentuates exhaustion and heat stress and overwork.

## Migrant workers still at risk

Several workers on different sites reported that within the past year the number of migrant construction workers on site had grown. One worker at the Olympic Village site put this figure at approximately 15 percent,

<sup>8</sup> "Olympic Village subcontractor had ties to yakuza gang, Tokyo police say" (28 September 2019) The Japan Times. Available at: <https://www.japantimes.co.jp/news/2019/09/28/national/subcontractor-suspected-using-homeless-people-supplied-yakuza-work-olympic-village-project/#.XZLlb0YzaUk>

while another worker estimated that roughly one in ten workers were now migrants. Migrant construction workers are predominantly from China, Vietnam, Philippines, Malaysia, and Indonesia.

These statistics could not be verified but it is very possible that employers are responding to delays and overwork (as well as recent immigration policy reforms in place since April 2019) by hiring more migrant workers. While some workers said that these workers were often better or worked harder than Japanese workers, there were concerns about their safety.

Communicating consistent safety messages to workers with many nationalities and languages can be difficult. Migrant workers were said to be given morning briefings in their own language, but other safety processes, such as newcomer trainings and posted information on safety were only available in Japanese.

Similar issues were encountered in the Qatar 2022 World Cup construction process, with a workforce almost exclusively composed of migrant workers. However, systems were put in place to ensure that safety information is communicated in multiple languages. Given the historically tight restrictions imposed on labour migration into Japan, subcontractors should have knowledge of the nationality of their workforce, and this information can be provided directly to primary contractors so that safety information would be multi-lingual.



## 2. Keeping wages down

Japan's labour shortage in construction is driving many of the safety risks outlined in this report. If the labour "market" was a real market, a labour shortage would cause wages to rise, but that is not the case. That is one reason why fair wages and benefits depend on collective bargaining. For Tokyo 2020, construction costs have risen to over seven times initial projections.<sup>9</sup> The profit margins in the construction sectors have declined for the last two years<sup>10</sup> (despite 2017 being a record year for the country's four biggest contractors).

Average wages in construction in Japan remain lower than the national average wage (US\$40,000 rather than US\$50,000).<sup>11</sup> Our interviews revealed that employers are using a range of techniques to keep wages down, including using excessive subcontracting arrangements (including labour-only subcontracting), wage delays, violations of pension law, and forcing workers to pay transport costs.

### Rampant subcontracting

Since World War II Japan's construction industry has been dominated by multi-layered subcontracting. While occupational safety and health is generally the responsibility of the primary contractor, the contracting system outsources most aspects of labour management to the subcontractors. Competition between contractors puts downward pressure on wages (keeping wages from rising despite market conditions), while effectively meaning that neither primary contractors nor subcontractors respect their responsibilities to comply with labour standards. And, with delays and tight budgets, costs get pushed down the subcontracting chain, putting financial pressure on subcontractors to stay afloat.

For example, interior workers on the Ariake Arena engaged by a subcontractor reported that their employment relations resulted in an effective wage cut. They noted that while they wear helmets with the name of the primary subcontractor on it, there is a services contract or limited company established between the subcontractor and the team leader, who pays the worker wages after taking a cut for itself. In some instances, it is suspected that this premium is used to cover subsequent cost-overruns from jobs taking longer than scheduled.

Such workers do not have employment contracts, and their wage payments are based on concepts that do not appear in Japanese employment law. In legal terms the team leader is one of a number a secondary (often labour-only) subcontractors working under the primary subcontractor. In this case, each of these subcontractors employ around 5 to 10 people, taking a "cut" from all of the individuals below them. As

### Construction Industry Law

**Article 24.6** of the Construction Industry Law provides guidance to subcontractors not to violate laws and regulations (including the Labor Standard Law and Occupational Safety and Health Law). Subcontractors are obliged to make an effort to request corrections, and if the corrections are not made, the relevant authorities will be notified.

In addition **Article 24.7** stipulates that subcontractors are obliged to have accurate information necessary for the creation of construction system ledgers and construction system diagrams.

<sup>9</sup> Yen Nee Lee "Tokyo Olympic cost for national government now reportedly estimated at 7 times budget" (5 October 2018) CNBC. Available at: <https://www.cnbc.com/2018/10/05/2020-tokyo-olympics-estimated-to-cost-7-times-over-budget-report.html>

<sup>10</sup> "Major Japanese firms project 1.1% profit drop, survey finds" (28 April 2019) The Japan Times. Available at: <https://www.japantimes.co.jp/news/2019/04/28/business/corporate-business/major-japanese-firms-project-1-1-profit-drop-survey-finds/#.XZQTzkYzZPY>

<sup>11</sup> Junichi Sugihara "Japan's construction sites seek to be foreigner-friendly workplaces" (8 September 2018) Nikkei Asian Review. Available at: <https://asia.nikkei.com/Economy/Japan-s-construction-sites-seek-to-be-foreigner-friendly-workplaces>

a result of this arrangement, workers report that the amount they were paid was less than what they were told when they got the job.

None of the workers engaged through this scheme had employment contracts, and they were not the only Tokyo 2020 workers interviewed that didn't have employment contracts. While this is not strictly illegal, it is an issue that we highlighted in our previous report, recommending that all workers have written employment contract to minimise the possibility of exploitation or unexplained deductions.

By adding additional sets of legal relationships and lines of responsibility, rampant subcontracting also undermines the capacity of unions to effectively organise construction workers and bargain to improve their conditions. According to Japanese construction union Zenkensoren, no new collective agreements have been concluded with construction companies working on Tokyo 2020 Olympic construction sites. This situation is exacerbated by the participation on work by self-employed workers.

## Payment and wage delays

Rampant subcontracting also creates the capacity for contract payment delays so wages are too often not paid on time. For example, it was reported that a payment to a subcontractor working on the Tokyo Olympic Aquatic Center amounting to ¥20 million (~US\$185,000) was delayed, putting the subcontractor in a difficult position and causing workers to go without wages for several months. Another contractor reported a ¥5 million delay in payment for stone material.

This not only undermines workers' living standards, but indebtedness also makes it difficult for workers to take collective action to improve working conditions as they are under economic pressure.

## Pension violations

Pension contributions were a consistent concern. Under Japanese law, all people residing in Japan – including migrant workers – must be covered by the National Pension system and pay regular contributions. In the construction industry, the pension scheme is called Kentaikyo.

Enrolment in the scheme was seen as a strict requirement for being allowed to work on Tokyo construction sites, and one worker noted that a colleague who was not employed was forced to quit. However, some workers noted that the process for applying for Kentaikyo was very complex, while other workers noted that they did not receive the Kentaikyo.

## Transport and parking costs pushed onto workers

Transport and parking have also been raised as a major concern, with workers on some sites saying that they have to pay between ¥25,000 (US\$233) - ¥40,000 (US\$373) monthly, and others indicated that they had been instructed to use public transport to get to work. Workers on other sites said that they were able to bill these costs back to the contractor; however, this was exceptional.

Transport and parking in and around Tokyo is especially a problem for hitori oyakata – self-employed workers – and subcontractors, who need to carry tools and safety equipment to sites. When this report was prepared, the problem was made worse by the presence of a large number of tourists related to the Rugby World Cup.

### 3. Access to justice still poor

The previous BWI report showed that the systems for workers to access justice - mainly the three grievance mechanisms in place - were not working effectively. It was also stated that controls on the movement of information - required by the Sustainable Sourcing Code - were effectively acting as a barrier for worker access to justice.

This problem has not been resolved. Workers continue to report that they are prohibited to take photos on site without the permission of supervisors. One worker observed that after a colleague posted a photograph on social media he was immediately forced to delete it. A poster at the Olympic Village reinforces this restriction on photos within the construction area.

Article 5(vi) of the **Sustainable Sourcing Code** concerns “proper management of information”, requiring suppliers (including suppliers of construction services i.e. construction companies) to establish “systems for preventing information leakage according to the level of information security risk”.

Poor management has made this situation even worse, creating additional risks. Workers said that creative feedback or proposals was resulting in workers being condemned for their suggestions. One self-employed subcontractor said that he was yelled at by his superiors for suggesting improvements, saying that he lost around 5kg during this period from stress. “Honestly, it is not a workplace I want to go,” he said.

Workers also observed other restrictions on basic freedoms. Some workers have been told not to talk to people about their conditions of employment or to fill out surveys. Other workers were told that they had to change out of their uniforms before going to convenience store (however, they complained that goods sold in onsite vending machines were much more expensive). Other workers said that they were told not to drink alcohol near the workplace, after a worker who was on medication had a problem in a bar in Kachidoki.

These restrictions make it difficult for workers to have problems addressed, and limited union access means there is no real possibilities for industrial relations to resolve worker grievances or other problems. As delays mount, company management are becoming less responsive to issues raised, and in some instances, aggressive.



## 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.*