

Construction Workers Can Police Industry For Safety

by Herman Benson

In his very informative article in the Fall 2008 *Regional Labor Review*, Professor Vernon Mogensen criticizes the record of OSHA under the Bush administration for its failure to protect construction workers against dangerous conditions in the industry, conditions that lead to depressing statistics of death and injuries. I would like to take off on one subject that he alludes to when he writes, "

"Workers must ... be empowered to inspect and report dangerous working conditions without fear of reprisals.... immunized against retaliation for reporting injuries and illnesses for their own safety and health and for a more accurate count."

We certainly need more and more government inspectors, and they must inspect more often and more honestly. More inspection by honest inspectors are bound to do some good, but there's a limit to what any inspectors can accomplish, even the best, by appearing, with or without warning, on the site where all that complicated equipment, with thousands of parts, is assembled. They can't go over every one of those straps, ropes, and cables; those wheels, pulleys, and gears; those nuts and bolts that hold everything together. Were the right-size rods inserted, hammered into place, and properly fixed to hold the connected units together? Were all the scaffolds securely fixed to the walls? Was someone satisfied with dangerous cost-cutting shortcuts?

Inspectors, even if honest and diligent can see only so much. But there are thousands of others who can do more: the construction workers actually at the work sites on the job, those who put everything together and actually use all that equipment. Their lives are at risk when safety precautions are ignored. When there's death in an accident, occasionally a bystander is victimized; always it's at least one construction worker, often more. But no one in a position of authority encourages them to watch over the work and speak up when they know working conditions are dangerous. No one calls on those workers who have most at stake --- their lives --- to blow the whistle on the lethal dangers in construction.

Too many employers want only employees who will work swiftly and keep their mouths shut. Without protection, non-union workers --- especially the undocumented --- will continue to be helpless until they are organized. But unionized workers should feel free to speak out; their unions are there to protect their right to work in safety. But there is an odd problem:

Construction workers, even unionized construction workers, have no real job security. Jobs are transient, not permanent; when one project is finished, they look for another, often with a different contractor. The problem is that virtually all union contracts give employers the right to reject any applicant for work, **even those dispatched from the union hiring hall.** This contractual right to reject is unqualified; the employer need give no explanation; the rejected worker has no recourse to any grievance procedure.

As a consequence, unionists who insist that contractors comply with the terms of their union agreement, or who file grievances soon find that they are blacklisted wherever they apply for work. If you win a grievance against one employer, you may find it impossible to get work from any employer. Under these conditions, construction workers who protest unsafe conditions, risk everything. Many are forced to

become "travelers," roaming the country for work where their reputation as good union members is still unknown.

The most loyal union members can be victimized by the employers' arbitrary right to reject. In the International Brotherhood of Electrical Workers, local officers and union activists have been trying for years to get rid of that onerous provision in their contracts. At the IBEW convention in 2001, the delegates directed the IBEW leaders to end the unilateral right to reject and replace it with a provision that required "good cause" for any rejection. In 2006, the convention delegates repeated their demand for the change. But for one reason or another, the union has failed to make the change. And so, in the IBEW as in most of construction, a union whistleblower has no contractual protection. Until that changes, an effective force for construction safety will be missing.

Union leaders face the problem without facing up to it, like the United Association of Plumbers and Pipefitters which runs a full page in the July issue of its *Journal* on its job safety program, ending, "With an increased emphasis on safety training we can eliminate these tragic deaths and return every journeyperson and apprentice home safely every day." In August, the New York City Council voted for a law requiring construction workers to complete a 10-hour course in safety. Of course, training in safety is just as essential as in any aspect of a trade. But the main safety problem today is not individual ignorance or ineptness but the extent of corruption in the industry and the lack of basic job security for construction workers.

Why doesn't anyone in authority call upon construction workers to police their own industry for unsafe practices and to expose violators? It's not a matter of telling them to be careful workers but of creating a culture and a code that legitimizes, and even requires, whistleblowing against the dangerous practices that endanger their lives.

When danger is threatened in other areas of life, people are called upon to be alert and to act. Suspect a terrorist? Speak up! Police ask for public assistance in the battle against crime. A \$10,000 reward for information against a cop-shooter; posted on buses and bus stops. Crime Stoppers hot line. "Citizens are now being encouraged to capture crimes in progress on their cell phones," reported Christine Hauser in the *New York Times*, "and send the videos to the police." [9/10/08] Why not something like that in construction?

Why not? The answer is depressing: Too many employers would save money by ignoring unsafe conditions. Most employers, even the honest ones, prefer workers who produce more and speak less; they pay to get the job done at the lowest price; they see no cost benefit in encouraging workers to expose abuses.

Operating Engineers Local 14, which represents crane operators in New York, has agreed to a federal monitorship. Federal authorities can make a beginning in a section of the industry becoming notorious for death at the worksite. Call on those crane operators and helpers to report every safety-related violation. Circulate a hotline number and provide protection for callers.

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