

# An unfair law

THE story in this newspaper yesterday about a construction worker who broke both legs and his back in a fall while at work and now cannot get the compensation due to him brings home the very special need for a strengthening of the Workmen's Ordinance Compensation Ordinance. On the face of it, the Ordinance as it stands lacks any real teeth. Leung Hui, the man in question was awarded \$19,204 by the court and the defendants were told to pay up within 14 days or go to jail. That was months ago. So far Leung has received \$800 in two instalments and nothing else. If he complains to the court the defendants will go to jail, but it will be Leung who will be also penalised as he will have to pay \$15 a day for the up-keep of each defendant while they are in prison. This makes a mockery out of justice.

If a court rules that something should be done, and it is not done, even in a civil case, that is breaking the law. As such it is a punishable offence. But in this case it is like asking a robbery victim to pay for the up-keep of the robber when he is jailed.

There were 234 industrial compensation cases last year of which 164 were referred to the courts for legal aid. Most of the cases had their compensation paid out fairly quickly although seven took longer than a year and two still have not been paid out, just like Mr Leung. Giving these figures in Legco in July, Acting Commissioner for Labour Mr J. Henderson said that there had been no complaints of unwarranted delay. The reason for this is obvious if the cases are similar to Mr Leung's as it means that complaints lead to a jail term with the victim paying for the up-keep of the offenders during their sentence.

The role of the Labour Department in these cases must also be looked at. The Labour Department does its best under circumstances that hamstring any real action. As things stand now an employer must report an accident that causes death or a worker being unable to perform his duties within seven days of the accident. Then the Labour Department goes into action. The causes of the accident are investigated and filed away until the victim or the relatives are in a position to file for compensation.

The file on the accident is then brought out and the Labour Department officers carefully weigh the evidence and the amount of disability suffered. Having weighed everything in the balance they then suggest to the employer the amount of compensation to which they think the victim is entitled. This is where the whole business becomes farcical. The Labour Department can only suggest. It cannot enforce. If the employer turns a deaf ear the only recourse is to advise the victim to seek legal help. This is not the fault of the Labour Department, it is the fault of Hongkong's antiquated labour laws.

This is a situation that must not be allowed to continue. Compensation for a disabled worker is judged by the degree of his disability. The worse it is, the more he is likely to be awarded. The worse it is, the more compensation he will need. If the disability reaches such proportions that the man is unable to earn a living wage, the compensation is all he has to help keep his family.

The Government is now looking into the question of the Workmen's Compensation Ordinance and considering ways to bring it up to date. It is essential that while the new amendments are being drafted they take into consideration stiffer penalties to ensure that once compensation is awarded it is paid out with the minimum of delay and without victimising the awardee.