

## **INHERENT CHARACTERISTICS ASSOCIATED WITH THE CONSTRUCTION INDUSTRY**

In the process of implementation of the Act and in furtherance of extending benefits to the construction workers certain aberrations as outlined in the problem under study such as lack of awareness of the Construction work force, mobility of labour, frequent change in employment etc hinders in the administration of the Welfare Board. Before going into the mode of collection of data from the stake holders and its analysis, efforts were made to review the existing literature and on its perusal it was possible to capitulate certain major inherent characteristic features prevalent in the construction industry

The Construction and Building industry in India is the country's second largest economic activity, next to agriculture. This is the biggest service industry playing a major role in the economic growth of the country and occupying a pivotal position in the nation's development plans. **In India, the construction industry employed a work force of nearly 32 million and its market size is estimated at nearly three lakh crore rupees.** It is second largest contributor to the Gross Domestic Products after the agricultural sector. Construction activity is an integral part of a country's infrastructure and industrial development. It provides substantial employment and growth inputs to other manufacturing industries such as cement, Chemicals, bricks paints, bitumen, etc. Construction Industry provides large-scale employment

opportunities to rural as well urban labour. These workers are one of the most numerous and vulnerable segment of the unorganized sector. Young illiterate and unskilled males dominate construction labour. Participation of female unskilled workers in construction industry in about 30% of the total workforce. The workers engaged in this construction include mostly semiskilled and unskilled. Majority of workers are from below poverty line, illiterates, coming from weaker sections. Crisis in agriculture and shift in the mind set of the labour force with forces of unemployment and the impact of the industrialization has resulted in the increase of strength of construction work force. These factors have supported migration of large number of rural to urban centers and the construction activities are carried in a need based manner. The industry's significant feature is in its mobility. These workers being unorganized and having hardly any employee and employer relationship continue their work and move from one place to the another in search of new jobs. Due to lack of awareness and the compelling conditions these workers are prone to suffering and exploitation. These workers are paid less than minimum wages and the situations vary from geographical limits. In the absence of any welfare benefits despite the existence of many labour laws, the construction work force is performing its functions in a miserable manner which needs attention from the functionaries of the Administration and Government.<sup>87</sup>

Various studies have shown that low level of wages, delayed payments, inadequate social security measures, unhygienic working

conditions, bonded ness, frequent changes in their work place and instability of their work are the major problems faced by them. Moreover these problems deprive them and their family members from basic facilities like health education and other welfare provisions needed for their development.<sup>88</sup>

During the seminar held on 8<sup>th</sup> August, 2009<sup>74</sup> it was stressed by the dellegates comprising bureaucrats, academicians, resource persons and judges of high Court of Karnataka and one of the judges has observed that Albert Einstein said “Nothing is more destructive and disrespectful for the Government and the law of the land than passing the law which cannot be enforced”. Therefore, real test of law is its implementation. The law which cannot be implemented in no law at all. The legislature enacts the laws. The executive has to implement the laws. It is our experience that many laws are not implemented or half heartedly implemented or violated. This is the reason that the majority of the people are unable to reap the fruits of enactments. The deliberations of the seminar have covered the following aspects.

**The need of the hour:**

- To conduct a study on the working conditions of construction workers employed in the construction sector.
- The State Government must take immediate steps to enforce the provisions of the Construction Workers Act, 1996.
- Take steps to book the cases against persons violating the provisions of the Act.

- Create awareness of construction workers rights and set up mechanisms for redressal of their grievances.
- State and its instrumentalities being the biggest employer in the construction sector shall implement the provisions of the Act in letter and spirit.
- The Trade Union and Non Government Organizations have to take much more leading role.
- The functions of the Welfare Board shall be subject to public auditing.

That the study on hand will move in the direction and come out with in identifying the reasons besides bringing out meaningful inputs.

The global integration of the Indian economy has transformed the very logic of the production and has also led to the increasing centralization of its processes. The logic of globalization demands the maximum use of the economics of scale, in order goods to be more competitive in the market. It therefore, makes it more difficult for the small producers to stay afloat and sustain their business in the market. As a result, in recent years there has been a greater absorption of labour displaced from traditional occupations like agriculture and handicraft to construction and sectors is a further pointer towards the trend of normalization. It also provides opportunity for seasonal employment thereby supplementing workers' income from farming; and permits large-scale participation of women workers. **Thus the construction sector is emerging as one of the largest employers in the country.** The sector also recorded the highest growth rate in generation of jobs in

the last two decades, doubling its share in total employment. As a matter of fact these construction workers who are changing the very face of India with their bare hands are exploited and discriminated a lot.<sup>90</sup>

In our country, social security has so far benefited, by and large, only to the work force of organized sector. The most important social security need of the poor is food security. But, food security cannot be ensured without access to adequate purchasing power for the wage earners. Since the means of obtaining purchases is employment a minimum wage, employment security is essential for achieving food security. Food insecurity could be of two forms: transitory insecurity resulting from decline in household's access to enough food, the worst form being famine; and chronic food insecurity resulting in continuously inadequate diet, caused by inability to acquire food. Further, food intervention programmes are not helpful to the poor who suffer from ill-health. Health intervention should be considered more important than food intervention, particularly in the case of poor children from backward castes who are found to suffer from ill health. The shift of agricultural labour affects the ability of these groups to obtain self provision of food. Besides, the trends in the labour market such as shift from kind to money wages subject the labour to food insecurity.<sup>91</sup>

Though the prime factors relevant to basic social security are outside the scope the study on hand yet it is rationale to place the broad outline of these issues as these basic necessities have direct bearing in extending the contingent social security benefits.

The construction workers being a part of unorganized labour have to face many problems and the very nature of the labour process in construction make the construction workers to be nomadic existence. The migrant construction workers are being discriminated on the basis culture, linguistic and class sense and are living inhuman life. Children are of these migrant construction workers deprived of the education due to the nature of their job. Harassment and extortion by antisocial elements at the workplace and in their residential colonies was also reported by 43.2% of the construction workers. During discussion with construction workers, it was reported by 64% of the workers that the contractor did not pay them their whole wages regularly on daily, weekly fortnightly or monthly basis. The payment is made by the contractor only whenever the workers demand so. Moreover the contractor pays only a portion of amount so demanded to meet their daily needs or requirements. The whole account is cleared at the close or completion of the work or at the time of their return to native places. Thus the contractors exploit the workers by paying less than the statutory minimum wages and also on account of delayed wages by using the amount of such wages for their own benefits. Most of the construction workers (55.2%) told that they often work for more than the stipulated hours without overtime rate. All the construction workers also expressed their resentment against their non-coverage under social security measures by their contractors. They were also of the view that frequent changes in their work place and instability of their work deprive their wards from availing primary and basic facilities of health and education. <sup>92</sup>

Characteristically, the market in the construction sector varies from other industries, for unlike them it does not generally create a market and produce accordingly by anticipating demand. In fact, fluctuating investment tendencies in construction activities give the industry a relative instability in terms of the demand and supply of its products. This in turn affects the nature of the market in this sector and by implication decides the nature of employment in it. An unstable demand and supply situation not only gives room for varying speculations but also makes the labour to float more, rather than being continuously associated with it. Given the instability of demand and localized market for the produce, it is plausible that construction firms are able to do well enough by (a) recruiting from a large pool of insecure and unskilled labour.

While a part of this labour force is floating and move to these sectors seasonally, a group develops a long-time association with the industry that makes it more or less settled in urban centres and also significantly dependent upon it. Often such groups come from the categories of landless or marginal agricultural labourers and farmers who get trapped into compromising between subsistence wages in urban areas and marginalized situations in rural areas. Their growing dependence on the sector compels them to move from one employer to another or from one work-site to another.

The earlier mentioned factors which together work towards underpayment, depression of wages and insecurity of employment of the labourers in this sector, also leads to rather poor living and working

conditions of such workforce. The production process itself in this industry compels the labourer to be continually in search of a job which turns them into an ever temporary input at different work-sites. This very essential nature of the industry, which makes it easy for the contractors to flout rules and pushes the labourers into accepting inhuman living conditions, makes it difficult to provide standardized welfare amenities as, say, could be done at fixed factory sites. This it makes it more challenging and all the while necessary for the legal apparatus to come down heavily on the employers, so as to ensure a minimum acceptable welfare and living-standards for these groups.

The activities within the construction sector have grown in cities and countryside with the growth in investments in the housing sector, increasing the number of institutions supporting such corresponding growth, changing trends in the real estate business, development of infrastructure, such as roads, railways, bridges, irrigation and power projects, both in the public as well as private sectors etc. The growth rate in the labour-absorption capacity in the sector too has increased over time and so have increased means and ways of adjusting the profit margins by contractors and sub-contractors, especially through the utilization of available surplus labour always in their own favour. The labour for this sector is mainly drawn from areas where the economy has generally led to a high degree of marginalization of the workforce. Such processes which have reinforced deprivation, indebtedness and acute poverty in specific regions in the country have pushed the workforce out of such areas that often lead to a 'circular' but insecure and

discontinuous mobility between sectors that can provide some wage employment to them, howsoever meager or limited that could be. The logistics of these movements, however, have not remained as simple, for the institutions through which they have to negotiate these employment potentials have successfully been able to create a nexus between the product and the production process in ways that increase the dependence of this labour on middlemen or contractors.

The relations of production in this sector thus get characterized by a continued indebtedness and dependence, with the fragmented nature of the work itself decentralizing the labour and hence their power to bargain collectively is insignificant.. Use of the kin-network and village ties makes it more an aggregate of 'groups' of labourers specializing in specific tasks with their kin-leaders often working as Maistries or jamadars. Be it the Dadan labour contract system in Orissa or the contractor-Maistri relations and hiring of labour in Andhra Pradesh, all manifest a continued exploitative relation which most seemingly corresponds to a semi-feudal mode of labour use. It is because of these inherent characteristics of this industry that construction labourers get placed in the 'unorganized' sector of the industry in particular, and the overall economy in general. Evidently, thus various legal protections which are broadly the product of collective bargaining in organized sectors, fail to yield desirable results for such a 'mobile' labour force.<sup>93</sup>

For majority of the workers it is a compulsion to get engaged in any form of livelihood. Limited cultivable or unsustainable land, low income of parents, lack of scope for higher education due to financial

constraints or incapability of the person reflected by repeated failure in examination and lack of any other viable livelihood opportunities in rural areas are the major reasons for the push. Land is the prima factor that assures livelihood to the people in rural areas. In India increasingly large numbers of people are getting marginalized and alienated from land.

“Construction workers are dominated by young, married, illiterate and unskilled males, belonging mostly to the scheduled casts and tribes, backward caste and Muslim community, with a large family dependency load. Workers in the construction industry are often the rural migrants who were mostly landless labour and on the brink of starvation in villages. About 90 percent of the workers entered the jobs in the construction sector due to the compulsion of circumstances. <sup>94</sup>

Though the general features of construction industry was placed in the preceding paragraphs, yet it would be appropriate if the characteristics are spelt out in detail which will help to understand its implications on implementation of provisions of Construction Workers, Act, 1996.

## **(I) ECONOMIC CONDITIONS OF CONSTRUCTION WORK FORCE.**

### **Poverty in India: A Profile**

India is a nation with over 300 million poor people, a number that has barely declined over the last three decades of development. It is clear that rapid growth will be essential to reduce the number of the poor and for sustainable poverty reduction, but for growth to benefit the poor disproportionately, it will have to be accompanied by more rapid

employment expansion than hitherto, greater investment in health, education, water/sanitation, and child nutrition than so far, and directly targeted poverty-reduction programme. Overall, the number of poor in rural areas in the country as a whole has declined from 2613 lakhs in 1973 to 2209 lakhs in 2004-05, i.e., by just 404 lakh people over a 31 year period. That means the rate of decline in the numbers of the poor has been 13 lakhs per year. But in urban areas the numbers of the poor has gone on increasing from 600.5 lakhs in 1973 to 808.0 lakhs in 2004-05, this is hardly surprising since the share of the urban population in India's total population has also gone on increasing, driven partly by rural urban migration. The fact that the numbers of the poor have declined in rural areas, and increased in urban areas over the last three decades suggests that to escape rural poverty, the poor migrate to urban areas. In fact, the total number of migrant workers in India in 1999-2000 was 10.27 crore-a staggering number. The number of seasonal or cyclical migrants in India may be 2 crore or so. But migration, both rural-rural (from relatively poor to relatively richer States and districts) and rural-urban, has the effect of disenfranchising the poor, leaving them without a safety net. Nevertheless, rural-urban migration will, and should continue the policy imperative is that migrants are provided the basic social services that all citizens are entitled to according to the Constitution of India.

The composition of the poor has been changing and rural poverty is getting concentrated in agricultural labour and artisanal households and urban poverty in casual labour households. Agricultural labour

households accounted for 41% of rural poor in 1993-94 as well as in 2004-05. The share of self-employed in agriculture among the rural poor had fallen from 32% to 21.6%. Casual labour households accounted for 62.69% in 1993-94 urban areas and 56.5% in 2004-05.

Also pointed out that there is sociology of poverty, with certain social groups increasingly concentrated among those who are identified as poor. It also noted that there are identifiable occupational features of the poor: they are concentrated in agricultural labour and artisanal households in rural areas, and among casual labourers in urban areas. Casual labourers in urban areas are essentially distress migrants from rural areas in States where agricultural land-man ratio is very adverse, and where agricultural incomes have not been growing reinforcing the need for both land reforms as well as measures to increase productivity.

India has successfully reduced the share of the poor in the population by 27.4 percentage points from 54.9 in 1973 to 27.5 in 2004. Thus, 60 years after independence, over a quarter of our population still remains poor.

The Uniform Recall Period (URP) consumption distribution data of NSS 61<sup>st</sup> Round yields a poverty ratio of 28.3 per cent in rural areas, 25.7 per cent in urban areas and **27.5 per cent for the country as a whole in 2004-05**. The percentage of poor in 2004-05 estimated from URP consumption distribution of NSS 61<sup>st</sup> Round of consumer expenditure data are comparable with the poverty estimates of 1993-94 (50<sup>th</sup> round) which was 36 per cent for the country as a whole.

Table- 17 Headcount Ratio and Number of Poor Persons below Poverty Line in India (Combined)

States/UTs	Headcount Ratio	Number of poor persons (in Lakh)
	2004-05	2004-05
Andhra Pradesh	15.8	126.1
Assam	19.7	55.8
Bihar	41.4	369.2
Delhi	14.7	22.9
Goa	13.8	2.0
Gujarat	16.8	90.7
Haryana	14.0	32.1
Himachal Pradesh	10.0	6.4
Karnataka	25.0	138.9
Kerala	15.0	49.6
Madhya Pradesh	38.3	249.7
Maharashtra	30.7	317.4
Orissa	46.4	178.5
Punjab	8.4	21.6
Rajasthan	22.1	134.9
Tamil Nadu	22.5	145.6
Uttar Pradesh	32.8	590.0
West Bengal	24.7	208.4
Chhattisgarh	40.9	91.0
Jharkhand	40.3	116.4
Uttarakhand	39.6	36.0
Chandigarh	7.1	0.7
Dadra & Nagar Haveli	33.2	0.8
J & K	5.4	5.9
<b>All India</b>	<b>27.5</b>	<b>3017.2</b>

The percentage of poor in 2004-05

Sl. No.	Category	1993-94	2004-05
By Uniform Recall Period (URP) Method			
1.	Rural	37.3	28.3
2.	Urban	32.4	25.7
3.	All India	36.0	27.5

The immediate legal recourse to provide means of employment to the labour work force is initiated by the Government of India with the implementation of – National Rural Employment Guarantee Act (NREGA) - guaranteed wage employment

The Act was notified on 7 September 2005. The significance of NREGA lies in the fact that it creates a right based framework for wage employment programmes and makes the government legally bound to provide employment to those who seek it. In this way the legislation goes beyond providing a social safety net, and towards guaranteeing the right to employment.

The objective of the NREGA is to enhance the livelihood security of the people in rural areas by guaranteeing 100 days of wage employment in a financial year to a rural household whose members volunteer to do unskilled manual work. The Act further aims at creating durable assets and strengthening the livelihood resource base of the rural poor. The choice of works suggested in the Act address causes of chronic poverty like drought, deforestation, soil erosion, etc., so that the process of employment generation is on a sustainable basis.

NRGES, which was launched on February, 2, 2006, in 200 most backward districts in the first phase, has been expanded to 330 districts in the second phase. The remaining 266 districts have been notified on September 28, 2007 where the scheme will come into effect from April, 2008. As against the employment demanded by 2.61 crore rural households, 2.57 households have been provided wage employment

during 2007-08. A budget allocation of Rs.12, 000 crore was made for 2007-08 and Rs. 10,501.02 crore has been released till 30.01.2008.

Employment is dependent upon the worker exercising the choice to apply for registration, obtain a job card, and then to seek employment through a written application for the time and duration chosen by her. The legal guarantee has to be fulfilled within the time limit prescribed and this mandate is underpinned by the provision of unemployment allowance. The Act is thus designed to offer an incentive structure to the States for providing employment as 90% of the cost for employment provided is borne by the Centre. To ensure that authentic muster rolls are used, numbered muster rolls are to be issued for each sanctioned work by Programme Officer and maintained on the work site by the executing agency. Muster rolls must mention Job Card numbers of workers, days worked, quantum of work done, amount paid and must have space for recording inspections. Muster rolls need to be read out on the work site during measurement and wage payment to prevent bogus records. Entries of the muster roll as well as in the job cards of the workers are being made as a mode of scrutiny and identification of the beneficiary employed under the Act. <sup>95</sup>

The Government of Karnataka in pursuit of the scheme has been able to render employment assistance to the workforce. Employment is given to 4.23 lakh families and employment cards were distributed to 29.52 lakh rural families under Rural Employment Guarantee Scheme. <sup>96</sup>

The reasons for referring to this programme is to stress that construction work force is indirectly benefited by the said scheme as the

family members on the whole are employed by engaging themselves either in construction sector or in the vocation provided by the government under the said scheme and as a result the economic status of the labour force at large has been on the raise.

The first and foremost factor which drives the labour force for indulging in the construction activities is attributable to the poor economic conditions of the work force. To strike the root, it is the poverty and to capture the subsistence the energies of the Construction work force in particular is directed and due to the said necessity the growth of the construction force is rampant. The data placed herein reveals the fact that due poverty the participation of labour force in construction industry is growing faster when compared to the other sphere of activity and ensuring the food security is the primary concern of the functionaries of the Government.

A study on the plight of construction workers of **Guwahati city** needs reference which helps to understand the impact of the inherent characteristics on the construction industry.

The economic conditions of these construction workers is miserable as around 76% of them have the annual income of below rupees 25,000 and are living in poverty. Around 87.2% of them told that they were engaged in agriculture and casual wage employment in their villages before entering into the present work. It is an indication of excessive pressure on agricultural employment. This shows the inability of the agriculture sector to cater the employment needs of the rural poor people. So lacks of employment opportunities in agriculture sector compel these

poor people to find out alternate employment in construction work and other informal activities in urban areas for their survival.

Table 18

Plight of construction workers of **Guwahati city**.

Reasons for entry to the Job Market	Male Skilled workers	Unskilled Women workers
Poor economic conditions	70	18
Lack of education	7	-
Meager agricultural land	9	-
Lack of capital to start other work	9	-
Inspired by others	16	-
Own interest/better earning	30	22
Natural hazards	7	-
Lack of other opportunities	18	-
Total sample	166	40

Entry to the Job Market through	Skilled workers	Unskilled women workers
Family contracts	26	-
Personal contracts	50	7
Through contractors	60	33
Direct Visit	30	-
Total sample	166	40

Interaction with the workers revealed that there was no recent entry among them. Majorities of the workers are in the activity for more than 10 years and about one fourth are working at least for the past five years. However, it is reflected from the data that about one third of the workers required less than one year to acquire the skill and the rest two third took

more than one year. From the interactions it was revealed that all had upward mobility in the job market-from the helping hands to job of skilled construction workers. According to those construction workers who had shifted from other jobs, their earlier job had no fixed timing, but the present construction job has fixed working hours (8 hours a day) with rest of one hour in between. There is however incentive for additional work in the sector. The rate becomes double if a workers puts additional hours at night. Acquisition of skill, anticipation of better wage and working conditions were cited as reasons for shifting as well as remaining in the construction jobs. The skilled workers remark that the job of construction is much preferred than some petty jobs like petty trade and vending, transportation jobs in the urban economy because of relatively better return, comfort and status. These reflect presence of the pull factor in the construction sector in the lower end job market.

Time spent in the job	Skilled male workers	Unskilled women workers
Less than 1 year	-	1
1-3 years	-	5
3-5 years	4	12
5-10 years	45	8
More than 10 years	117	14
Total sample	166	40

Poverty and quest for a better source of livelihood where income level becomes the only criterion push the poor and uneducated women to this harsh livelihood sector. The women workers in this sector work as

unskilled helping hand where earning is more than what they get working as domestic help and in other petty jobs. Total monthly earning however depends on the extent physical effort can be stretched. More than one third of the women workers interviewed have been in this sector more than ten years.<sup>97</sup>

### **Incidence of Debt Bondage among Construction Workers**

It is noticed that the 'maistry' advances money to labourers. This credit policy prevailing in the construction industry serves as a 'survival mechanism'. The credit is not just offered as a matter of need for the worker. The contractor offers advances to the 'maistry' only when he foresees a need to keep a reserve labour force.

The factors such as differences in income due to diversity in operations, number of working days, number of working members, physical fitness, uncertainty of earning sufficient income despite hard labour, extreme fluctuations in income, and involuntary unemployment) acting together give rise to a situation where, for one or more days, several households are deprived of a sufficient income to meet even their basic consumption needs. The existence of subsistence credit provided by the 'maistry' is nothing but an appropriate built-in response to this problem. Wherever this loan is provided by the contractor, the 'maistry' functions as a mechanism for survival to a construction worker.

It was observed that indebtedness becomes a permanent condition and is even passed on from father to son. This situation was due both to economic factors (low income, uneconomic holding, etc) and to 'large-

scale exploitation' by the land-owning classes and private moneylenders. The consequences are extremely serious for cultivators and hired labourers alike. At times of dire need, the backward classes could meet their debts only by transferring their land or by performing work for their creditors. In this way, indebtedness turns marginal cultivators into landless labourers and results in forced labour.

In addition, the building contractor and 'maistry' also practice 'penal contract' methods. If a labourer fails to obey the orders issued by the contractor or 'maistry', or did not fulfil tasks assigned, the clause of 'penal contract' is enforced. In such cases, this 'penal contract' empowers them to retrench, dismiss or reduce the wage of the labourer. Being under the bindings of the penal contract, which is strengthened through the advance system, the labourers have no freedom. In case of continued refusal by a contracted labourer to work or of absence exceeding seven days, he was liable to be termed as 'absconder', which categorization would make him or her lose all the 'benefits' such as advance facilities, travel expenses, and permission to stay at the site. <sup>98</sup>

The study is based on primary information generated from construction workers in the **Kurukshetra** city of Haryana State. The information regarding the age of the construction workers shows that 46.2% of male and 31.1% of female construction workers belong to the age group of 26 to 35 years and 32.5% male workers and 62.2% female workers fall in the age group of 15 to 25 years. Around 12.5% of the male construction workers are the members of the age group of 36 to 45 years. It shows that majority (87.5%) of the total **construction workers**

are from fairly young population i.e., 15 to 45 years. The data also reflects that child labour is also prevalent in this occupation. Around 86% of the total workers are married. Around 38% of the male construction workers and 73% of the women workers belong to the backward castes, whereas 36.3% of the male and 26.7% of the women workers are from scheduled castes. A significant participation (26.2%) of general castes population in the construction work is also reported. This indicates that construction work is now not confined to scheduled castes or backward castes people only. The entry of the general castes people in the labour profession may be due to the lack of adequate employment opportunities in formal and the agricultural sector. The educational background of these construction workers is very poor, as a large majority of the male (78.7%) and female (93.3%) construction workers are illiterates.

It is revealed by the data that 63.2% of the construction workers belong to the nuclear families, 13.6% joint families and 23.2% extended families. As far as the **size of the family** is concerned the data shows that 70.4% of them have the family of five to seven members, 18.4% have the family consisting of four members and remaining 11.2% have more than eight members in their families.<sup>99</sup>

**Table -19 Personal profile of the Construction Workers- Kuruksherta city**

Age - Group	Male		Female	
	Number	Percentage	Number	Percentage
Below 15 Years	04	5.0	03	6.7
15 to 25 Years	26	32.5	28	62.2
26 to 35 Years	37	46.2	14	31.1
36 to 45 Years	10	12.5	-	-
Above 45 Years	03	3.8	-	-
<b>Marital Status</b>				
Married	69	86.25	39	86.7
Unmarried	11	13.75	6	13.3
<b>General Caste</b>				
General Caste	21	26.2	-	-
Backward Caste	30	37.5	33	73.3
Scheduled Caste	29	36.3	12	26.7
<b>Educational Level</b>				
Illiterate	63	78.7	42	93.3
Up to Primary level	11	13.8	03	67
Up to Metric level	06	7.5	-	-
	N-80			N-45

**Family Background of Construction Workers**

Type of the Family	Number (125)	Percentage
Joint family	17	13.6
Nuclear family	79	63.2
Extended family	29	23.2
<b>Family Size</b>		
Up to four members	23	18.4
Five to seven members	88	70.4
Above eight	14	11.2
<b>Family Income (Annual)</b>		
Less than rupees 15,000	72	57.6
Between 15,000 and 25,000	23	18.4
Between 25,000 and 30,000	17	13.6
30,000 and above	13	10.4

**In a study at Goa** it was observed that a high percentage of male construction workers (35.6%) were in the 22-30 age group, followed by 23.17% in the 31-40 age group, 21.95% in the age 21 age group; 14.63% in the 41-50 age group and 3.66% in the 51-60 age group. Construction work involves hard physical labour and this explains why most of the workers are in the 22-30 and 31-40 age groups. Among the female workers the table reveals that the highest percentage of females is found in the 14-21 and 31-40 age group (27.28% in the group) followed by 22.22% in the 41-50 age group and 16.67% in the 22-30 age group. The lower percentage in the 22-30 age groups among females is probably due to the fact that this is also the normal child bearing period for a woman and this may prevent many of this from undertaking hard manual work. The percentage is higher in the 14-21 age group, as women in this age group have fewer family responsibilities since most of them may not be married. The percentage of women in the 31-40 age groups is higher, as, by this age the child bearing period is over for most women and their children are also grown up. Thus, we find that most construction workers fall in the 22-30 age group, closely followed by the 31-40 as 14-21 age groups respectively.

The data reveals that 80% of the workers receive a monthly income above Rs 1,000, 13% between Rs.500-1,000% per month and only 4% below R.500 per month. In a family, if both husband and wife offer themselves for work, they earn a decent wage, provided they are employed for the whole month. It is observed that, during the contract period, they earn well, but, once the contract is over and if they are not

contracted for the next job, they stand to lose and then they have to find odd jobs on their own.

### Size of Family

It shows that 43% of the migrant construction workers have a family consisting of 3-5 members, 25% have 6-8 members, and 17% have above 8 members and 15% below 3 members. Very often, it is the size of their families that eats up their income especially if there are a large number of children below 14. However, if there are more adult members and each one offer he/she for work, the total family income rises. <sup>100</sup>

### Age and Sex Distribution of Migrant Construction Workers

Age Group	Male	Female	Total
14-21	18	5	23
22-30	29	3	32
31-40	19	5	24
41-50	12	4	16
51-60	03	-	3
Does not know	1	1	2
Total	82	18	100

### Monthly Income

Monthly Income	No. of Workers
Below Rs. 500	4
Rs. 500-1000/-	13
AboveRs. 1000/-	80
Not revealed	3
Total	100

The concentration of women in certain sectors and industries, and, within these, in the more precarious and low paying jobs, is an obvious indication of fragmentation. Women performing more or less the same tasks as men, receive substantially lower remuneration.

Due to the labour-intensive nature of the techniques used, many (unskilled) pairs of hands are needed, and since women work for much lower wages than men, they are employed in large numbers. The tasks they perform on a building site are seen as different from those done by the male helpers; the latter do the slightly heavier work. In fact there is a fairly strict division of labour, whereby the work is arranged in such a way that the mason can concentrate fully on laying the bricks, while the male helpers prepare the concrete mixture, and lift this concrete mixture and the bricks which are then taken over by the female helpers and brought to the mason. That the average regular worker is much younger than the average casual worker, whether skilled or unskilled, male or female. Obviously, the masons are much older than the male helpers, since one has to pass through the stage of being an unskilled worker before becoming a skilled one. Elderly people, i.e. those aged 50 years and over, are quite rare among the regular workers, as well as among the casual workers. In general, construction work involves heavy physical labour not suitable for the elderly. One wonders therefore what will happen to masons reaching this age, whether or not they will stop this work, and become financially dependent on their families. In conclusion, women workers are segregated from their male colleagues through the tasks assigned to them, and thus constitute a separate fragment.

### Monthly household income of the construction workers

Rupees	Male skilled workers	Women workers
< 1600	-	17
1600-2500	4	9
2500-4000	82	11
4000-6000	66	3
6000-8000	9	-
8000<	5	-
Total sample	166	40

However, local indigenous people are present and involved in large numbers in road construction activities in many parts of the state. Most of the women workers in our samples found to be from the district of Dhubri in the state and very few are from the district where the city of Guwahati is located. Majority of the women workers in sample are in the age group of 25 to 45 years. There were also women in the relatively younger age group of 18-25 years and even under 18 years. However we found very few women above the age of 45 years, reflecting the fact that the age factor becomes a deterrent in sustaining in this labour market. We found in the sample that some women entered the labour market at a very tender age and are in the field for more than five years. <sup>101</sup>

It is imperative that economic condition of the construction worker is vital and which drives the work force to the construction sector

## **(II). MIGRATION OF CONSTRUCTION WORK FORCE.**

### **Labour migration plays a key role in economic development.**

The various sectors of developing countries depend on supply of labour, the productivity of which is limited in traditional agricultural sector. Labour migrates from the agricultural sector to the modern sectors where wages are higher but decline when supply of labour is unlimited. However, when labour supply is unlimited. Migration would have a supporting effect on both modern and agricultural sectors that provide and produce labour respectively. There needs brief outline about the labour migration theory and on perusal of which helps in understanding the impact of migration on work force and economic development. This offers explanation to the individual countries when uneven development hampers the uniform growth of a nation.

The Neo-Classical Theory; It is advocated that the unbalanced distribution of capital and labour at the macro level lead to migration by causing inequality in wages and living conditions. The migrants move towards places where employment, wages and other economic conditions are more advantageous. Wage differences would eventually be eliminated as migration continues and this would help migration cease and eliminate the inequalities, which are the grounds of migration. It is assumed that the decision to migrate is an individual decision taken by the migrant as a reaction to inequalities. It is admitted to be a decision taken by the migrants after making a comparative analysis of

the cost and benefits of migration and the migrants direct this decision towards the target where the new profit would possibly be the highest.

The Dependency Theory: Migration is caused by the increasing inequalities between the rural and urban areas and that there is an unequal development between the central developed countries and the peripheral agricultural countries and that the central countries develop by means of asymmetrical dependency by exploiting the peripheral countries.

The Dual Labour Market Theory: Industrialized countries have constant demand for migrant labour and a dualistic structure. Local labour has a constantly increasing level of education, is unwilling to work in secondary jobs and demands increasing prosperity. However, the risk of inflation restrains increase of wages for such jobs. On the other hand, the migrants who do not intend to stay permanently have a less picky attitude, more easily accept secondary jobs which allows the employers to move more flexibly.<sup>102</sup>

By looking the demographic phenomenon of migration in its overall perspective, there needs a mention about its impact in our country.

Migration is one of the most important development and demographic issues of the 1990s. It is a major factor in the process of urbanization and social change. There can be different sets of factors responsible for migration. Broadly, it can be economic factors like search of jobs or better jobs; social factors like marriage or accompanying of parents or an earning member; personal reasons like pursuing of higher studies or for getting access to better educational,

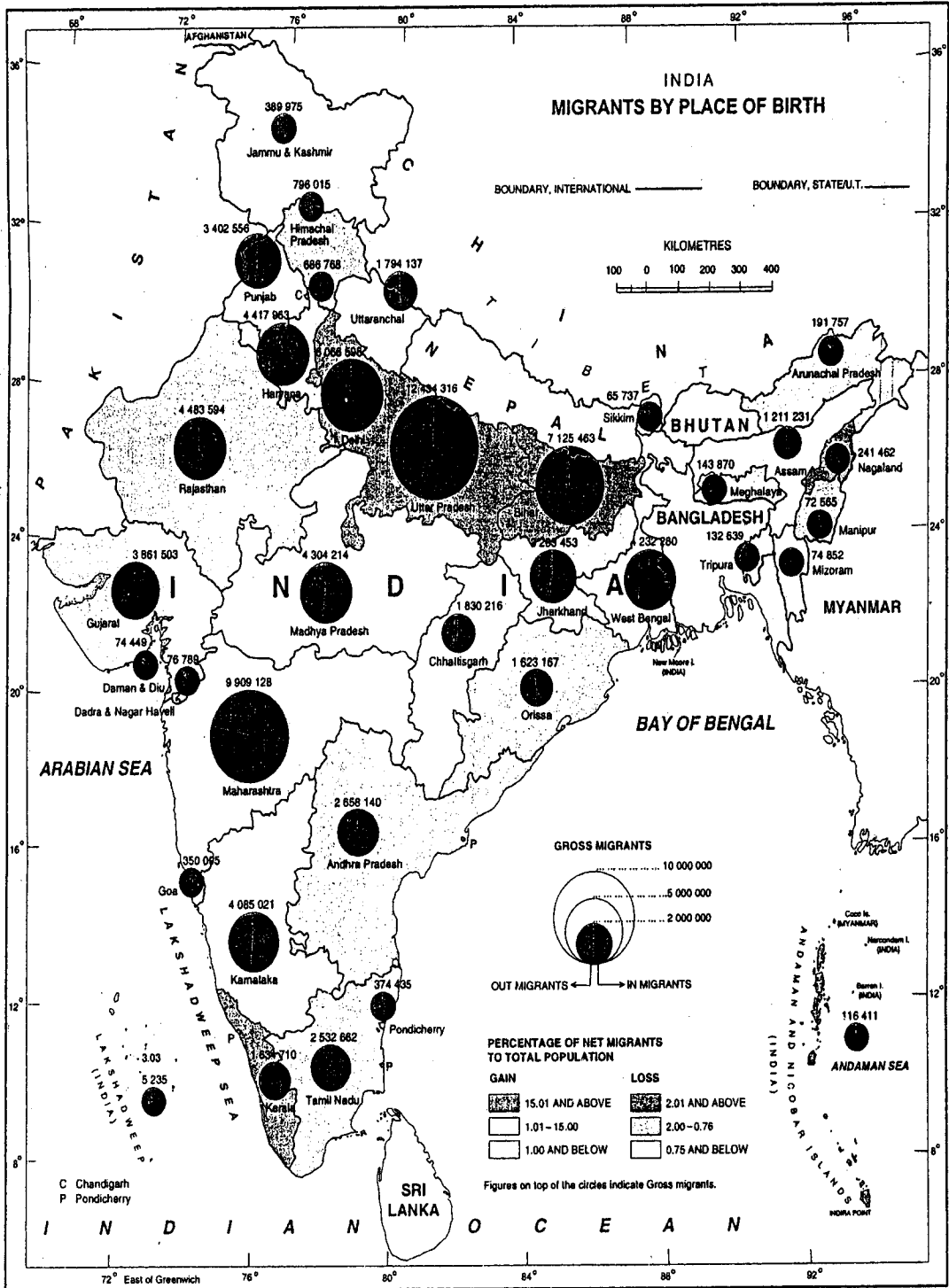
medical and health facilities; and sometimes natural calamities and political factors or lack of social security in a place.<sup>103</sup>

The head of the family or even individual members of the household take their decision to migrate to a place for improving the living conditions and this aspect is dependent on various factors which is detailed in the succeeding paras.

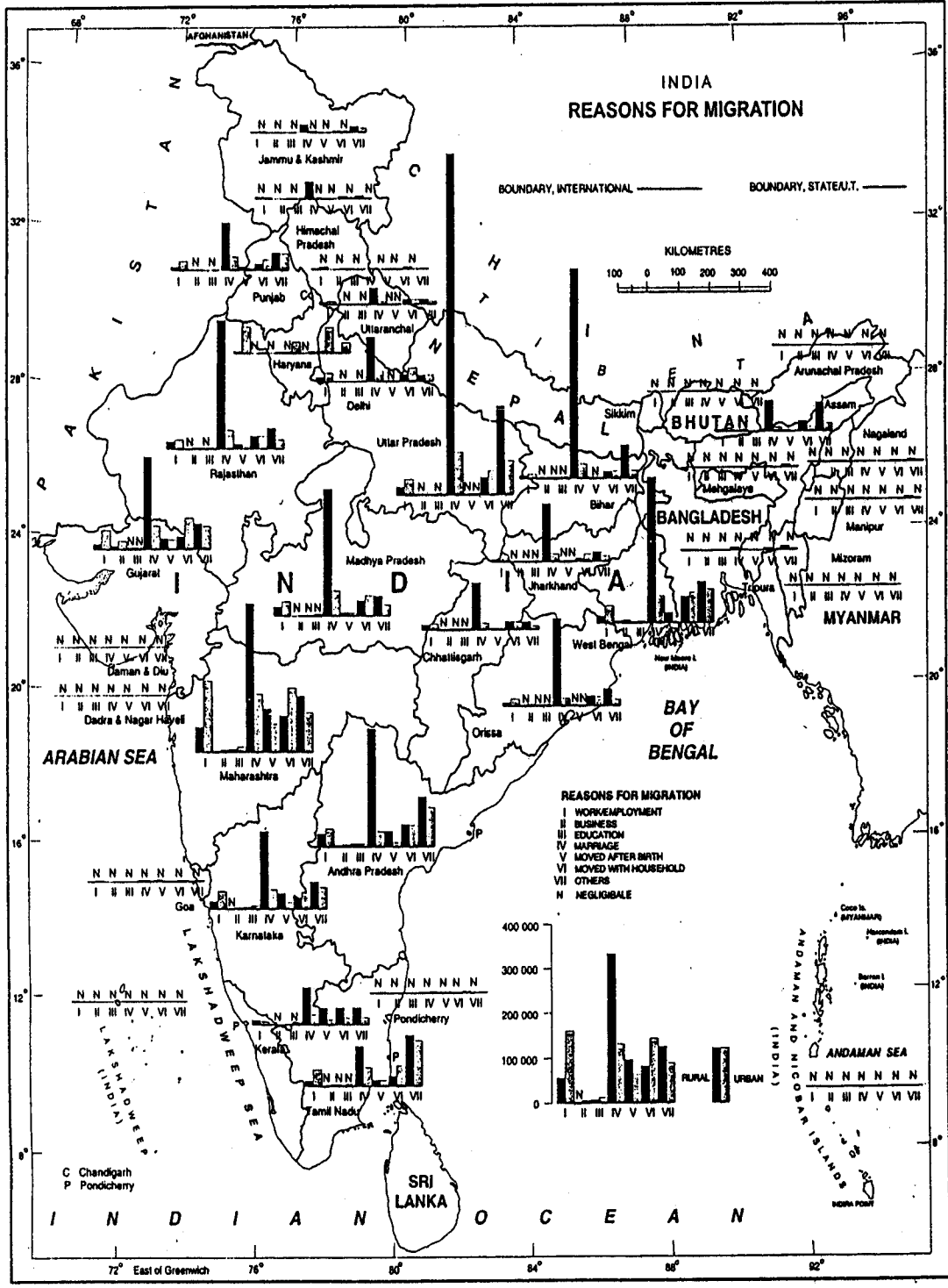
As per Census of India 2001,<sup>104</sup> *household* is defined as a group of persons who commonly live together and take their meals from a common kitchen. There are 1,019 million persons in the country living in 193 million normal households. Thus, average size of a household is 5.29 persons per household in the country.

In Census of India, a person is considered to be *migrant* by place of birth if the place in which he or she is enumerated during census is other than the place of his/her birth. Further the migrants by place of birth have also been classified as intra-district, inter-district, inter-state and from abroad depending upon their place of birth. Out of 1,028 million people in the country 307.15 million are enumerated as migrants by place of birth of which 42.3 million have been reported as migrants at inter-state level.

CENSUS OF INDIA 2001



CENSUS OF INDIA 2001



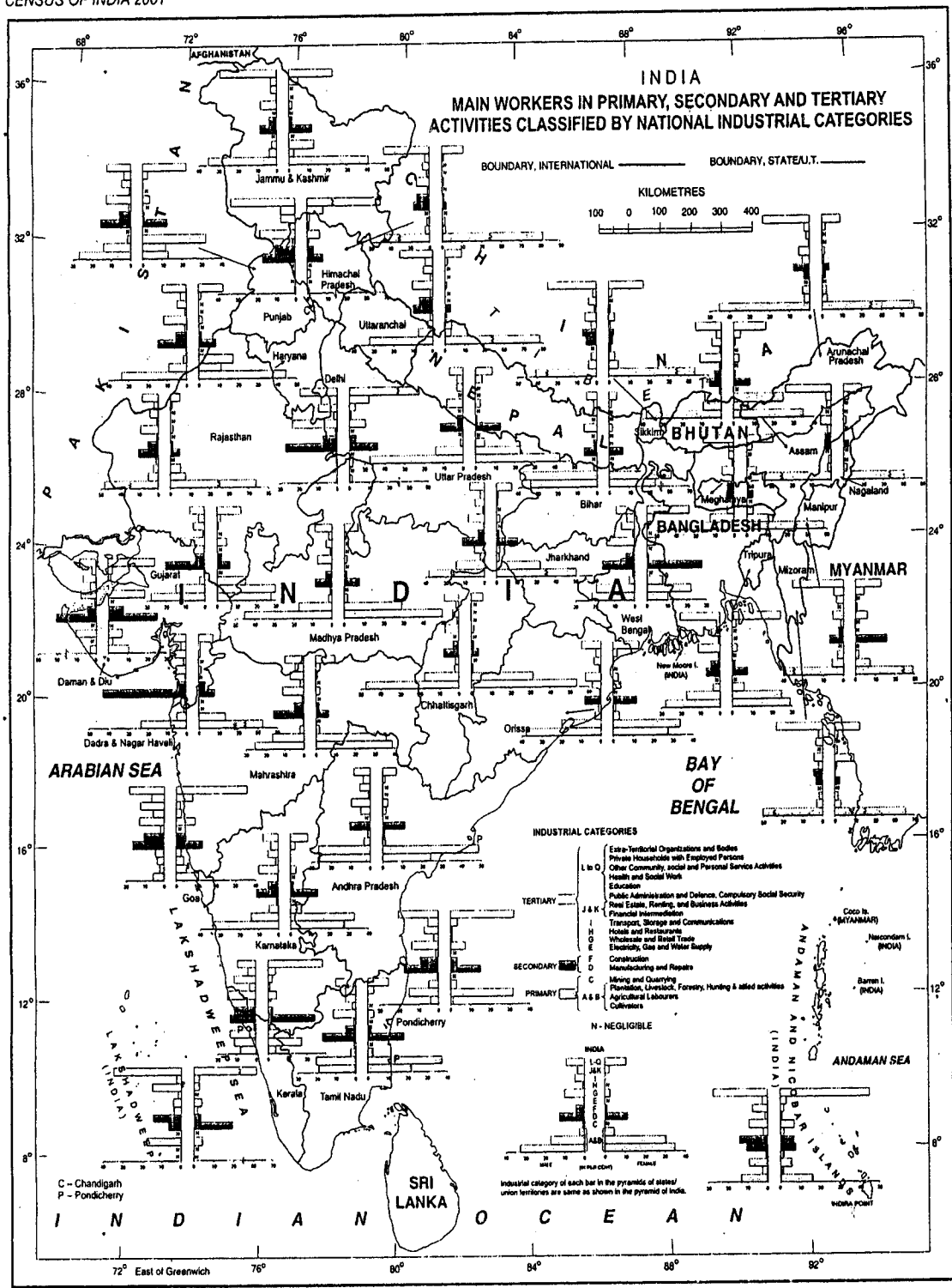
In Census Main workers have been defined as workers who had worked for more than 180 days in the preceding 12 months from the date of enumeration. A glance at *the map* reveals that the total main workers of the country are distributed mainly among four age groups. The main workers in age group 35-59 of male category have the highest proportion of main workers in comparison to other three categories, whereas in female sector the age group 15-34 occupies the highest proportion of main workers.

Considering the inevitability of search for work and employment and being primary concern, Labour force indulges in its sphere of activity in the form of main workers besides leaving behind marginal workers. The date as regards the main workers and their contribution in industrial categories is referred to. By looking at the role of main workers in the domain of construction sector, it is imperative that construction industry is emerging as a strong hold for providing immediate employment and to influence the work force for migration so as to meet social and material requisites. The *map* reflects the involvement of work force in the construction industry in states and union territories of the country. The workers involving themselves in the core sector is placed herein.



In census, workers in primary sector are those engaged in activities grouped in categories ( A, B & C ) secondary sector ( D & F ) and tertiary sector ( E, G to Q ). The category F reflects the field of construction activity. A glance *at the map* reveals that among primary, secondary and tertiary sectors, the highest percentage of main workers is in primary sector ( 57.46 % ) number 179 637 342 in absolute terms. The lesser share of main workers is in the secondary sector accounting for only 16.18 % of them numbering 50 577 697 in absolute terms.

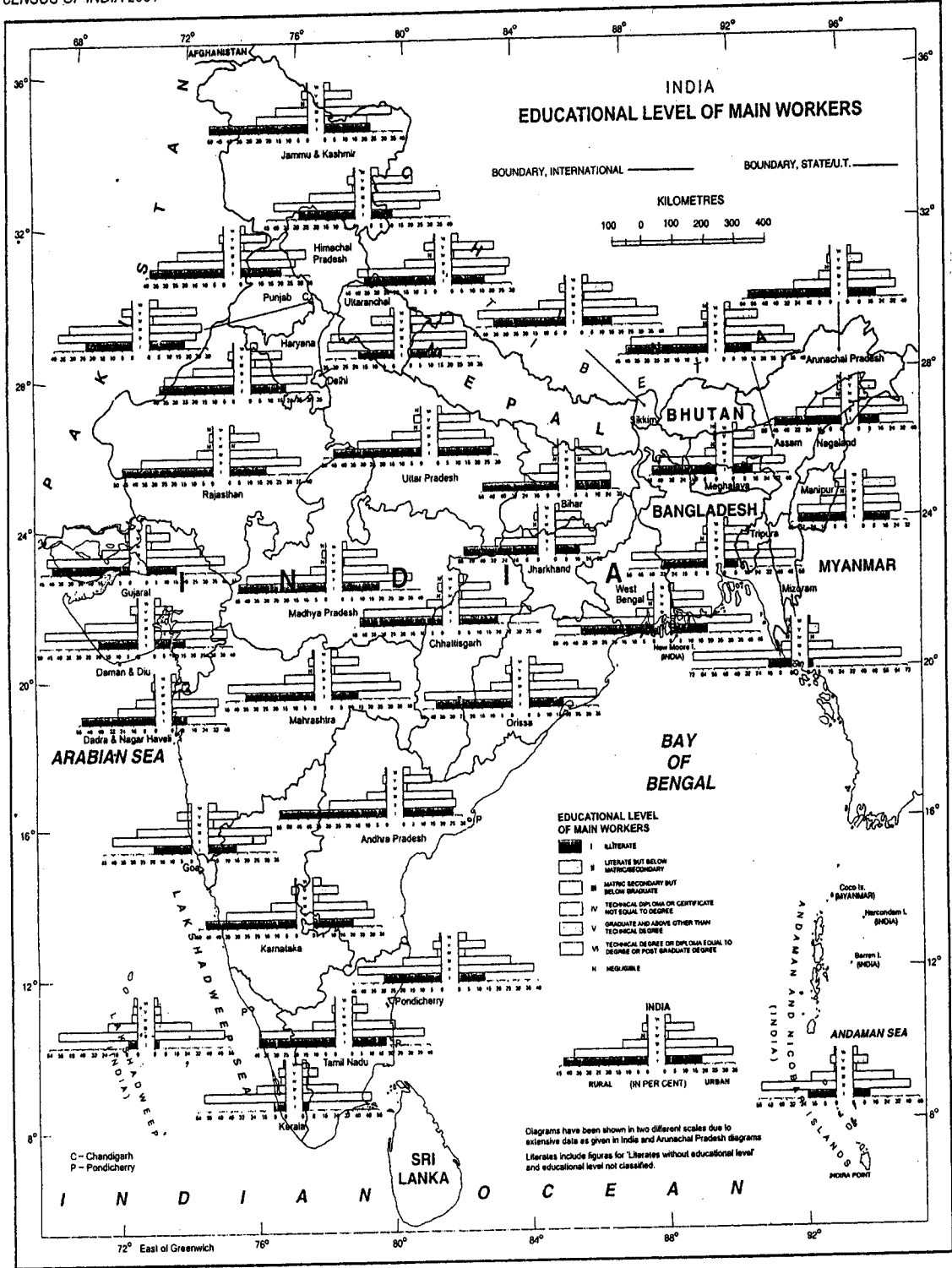
CENSUS OF INDIA 2001



Though migration of main workers to various industrial categories have been noticed in the preceding Para, yet the educational level of the population of the country/ work force has a specific impact in choosing the vocation which in turn effect the growth and development of the country. Education is also one of the vital factors of influencing the quality of labour force, economic returns and quality of life. Investment in education depends on the ability to meet the demand of the economic situation and development status. The Population Commission of United Nations considered the ability to both read and write a simple message with understanding in any language a sufficient basis for classifying a person as literate. Population census of India too has adopted the same classification.<sup>105</sup>. The *literacy rate* in the country is 64.84 %. The male literacy rate has been worked out to 75.26 % and female literacy rate is 53.67%.

Educational level of main workers: A main worker is one who had participated in any economically productive activity for a period of more than six months at any time during the reference period of preceding one year. The literates are further classified such as below matric, secondary, graduate, Technical diploma, post graduates degree holders. The percentage of literates among main workers is reported 63.60 in the country. Among these literates, the highest proportion of 36.39 % is reported by literates but below matric/secondary educational level followed by the second largest group 16.30 % of those with matric but below graduate. The main workers holding technical diploma group with a share of less than one percent.

CENSUS OF INDIA 2001



After having looked into the broad features of migration, there is a need to mention about the kinds and modes of practice in our country. Basically there exists two kinds of migration namely "In-migration" and "out-migration". Their difference is the net change in population due to migration. We are primarily concerned with the "in-migration" rate which is estimated as the proportion of migrants in the region during a specific period of time to total population of that region. Migration rate is the gross decadal rate, i.e, for inflows of migrants during the last ten years. We find that urban tertiary sector employment is a very crucial "pull" factor behind both rural-to-urban and urban-to-urban migrations. It is also a predominantly significant factor in explaining migration for economic reasons only. Obviously an increase in employment opportunities in the tertiary sector raises the demand for services offered by the migrant, labour in the informal sector. It should be noted that often the urban informal sector acts as a base for migrants for future entry into the formal sector. In fact, only the low productivity tertiary sector activities in the informal sector requiring low levels of skill which can absorb the migrants when they come to towns and cities initially in search of jobs. Increase in rural poverty seems to reduce out-migration as the very poor cannot afford to finance the cost of migration though they would wish to move out in search of economic opportunities in urban areas. This negates the more common view that rural poverty acts as a push factor. The significant role of urbanization, reflecting increasing job opportunities and a greater availability of infrastructural facilities in cities, in explaining urban-to-urban migration is clearly

evident in our findings. In some sense a higher level of urbanization denotes an overall higher quality of life in cities and this serves to attract many people from smaller towns to bigger ones and metropolises. In explaining migration into urban areas for economic reasons only, we find that only urban job opportunities reflected by the employment in the tertiary sector and non-household manufacturing and construction activities are significant. <sup>106</sup>

The study confirmed that the migrant migrates from the rural subsistence sector to the urban areas and is mostly employed in the urban subsistence sector. Among the various push and pull factors of migration, the economic factors are the important ones in determining the migration process. Most of the urban migrants maintain links with their native place in the rural areas through regular visits. The frequency of visits and remittance sent to rural areas depends on the blood relation he was with the rural area. The analysis on probability of remittance by a migrant to the rural area shows very poor probability. Only unmarried migrants and those who have assets in the form of land or house have a higher probability to remit. Further, the analysis on the amount of remittance and its determinants show that the decision to send remittance and the amount of remittance are independently determined. The closeness of ties with the rural areas for various reasons like, presence of close relatives, possession of land or house etc. The purpose of remittance does not support the view that it helps to promote rural development, since it is mainly to meet the rural household consumption expenditures. <sup>107</sup>

somewhat valid only for the skilled ones but they constitute just about 20 percent of the jobs in the sector and the unskilled are nowhere placed though construction sector constitutes of majorities of unskilled workers.<sup>109</sup>

In this context, three key variables namely, employment, income and rapid population growth are identified as determining factors of migration flows. Migrants move out from areas where employment opportunities are stagnant, where income is low and where the rate of population growth is high. Conversely, they are attracted to areas of new industrial development and regions of higher per capita income.<sup>110</sup> Nevertheless, today migration is borne out of growing process of industrialization, technological advancement, transport and communication and other changes that are taking place in the social and economic sphere. With these reasons we can get some idea about determinants of migration or motives for people's movement from one place to another. Also, it is essential to identify the overriding motivational factors for migration as reflected through the reasons and whether there are any set patterns emerging for male and female population over the years.<sup>121</sup>

From the preceding pars it is explicit that the reasons for migration is to gain employment and to meet the requisite of ones endeavor. The receipt of wages by the migrant workers helps in making remittance to the dependent family members and the remittance behaviour needs a glimpse.

Table-20  
Rural Remittances of the Migrants

Amount in Rs. (per month)	No. of migrants
1-100	73
101-200	78
201-300	45
301-400	14
401-500	24
501-600	9
601-700	4
701-800	5
801-900	1
901-1000	4
Number of remitters (69%)	257
Number of non-remitters (31%)	115
Total number of migrants (100%)	372
Average monthly remittance	Rs. 227

The age and education of the migrant would have both direct and indirect effects. The higher the level of education or higher the earnings of the migrants, the lesser is the likelihood that he would return, and hence he would like to retain a higher proportion of his income. Hence these two variables are expected to have a negative influence on a migrant's remittances. In general, the financial responsibility of a bachelor migrant is less when compared to a married migrant. However, the effect of the marital status of the migrant on his remittances depends upon whether he has moved with his spouse or not. Generally, the

migrants in the urban informal sector move with their spouse and this will reduce remittances to their family.

The remittance of migrants depends on four variables to capture the migrants' family ties: (i) number of family members who migrated along with the migrant; (ii) number of school going children of the migrant's family in the origin (iii) landholding of the family in the origin, and migrant's intentions of returning back. The dependence burden of the migrant at the urban destination goes up with an increase in the number of family members migrating with the principal migrant. A single migrant, on the other hand, has to send more remittances to the rural home.

The number of children of the migrant going to school at the origin has a positive effect and the effect is statistically significant at 1 per cent level in all the specifications. The results show that one additional child going to school at the origin increases the remittances of the migrant by about 8-14 per cent.

The estimates imply that the remittances increase by 14 per cent, if the migrant intends to go back to the place of origin. The area of land holding and income of the migrant are the two variables expected to reflect the inheritance and investment motives of the migrant. The important form of asset in rural areas is land and the inheritance motive depends upon the land owned by the family in the rural areas. Land is also an important source of investment in rural areas. Hence, landholding of the family is included as one of the determinants of remittances.

The results suggest that the remittances are more among land-owning families, who may use the remittances for agricultural operations or to invest in land or to repay loans borrowed to make investments in land.

The remittance behaviour of the migrants in the urban informal sector by using a primary survey data from Chennai Metropolitan area. Theories of remittance point to the fact that there are three motives for remittances, namely, altruism, self-interest and contractual arrangements.

The share of urban income remitted has a strong relationship with the indicators of family ties. A strong positive relationship is also observed between remittance and the number of school-going children in the origin and the intention to return home. The results show that one additional child going to school at the origin increases the remittances of the migrant by about 8-14 per cent and the remittances increase by 14 per cent, if the migrant intends going back to the place of origin. The more the number of family members that go with him, the less is the remittance. The results indicate that bringing one additional member to the city reduces the rural remittances by 2 per cent.

The empirical results also provide strong evidence on the inheritance and investment motives, and the remittances. A positive association between land holding at the origin and share of income remitted is observed. Thus, the study reveals that the rural remittance increases with the strong of rural-urban ties and declines with the weakening dependency burden at the place of origin. <sup>111</sup>

The Contract (Palamoori) labour migration is an institutionalized, personalized, tied migration system. It is a historically established labour system and migrants work at the construction sites throughout the country. In this system the middleman (maistry) recruits the labourers and regulates the labour market (on behalf of the sub-contractor residing at the nearby urban centre) through screening of labour and by a system of advancing the loans.

The contract migration in this village usually has two types of duration. Those who migrate to Gujarat to work on the Sardar Sarovar Project work there for about 9 months in a year. Those who go to other places work for 3-6 months. The latter usually migrate out during January- June every year. This is the lean season in the village, and come back in June with the onset of monsoon. The former group usually migrates during October-June, when the work at the project site is not disturbed by rains.

#### The Operation of the System

A contractor, who undertakes public works such as construction of a dam, a canal, a railway line or embankments for a water tank, etc., depends on a sub-contractor for the recruitment of labourers. The sub-contractor, in turn, mobilizes the required number of labourers from the villages through maistries who are generally the large farmers of the villages. The sub-contractor gave Rs. 60,000 or Rs. 1500 per labourer as advance to the maistry who brought 40 labourers from Dokur. To this the maistry added Rs. 1500 to Rs. 2000 per head from his own resources, making a total advance amount of Rs.3000 to Rs.3500 to each labourer. The sub-contractor pays Rs.24 per day to maistry for each labourer

towards food and wages. Of this, the maistry spends Rs.9 on each labourer (making a total daily wage of Rs.18) and thus he spends Rs.18 on each labourer and saves Rs.6 on each. The maistry from the village would thus earn Rs.180 on each worker per month. A maistry who takes 40 labourers with him would earn Rs.64,800 for 9 month's work. Even if we deduct interest amount at the rate of 36 per cent on the advance amount of Rs.60,000 he would be making a profit of not less than Rs.50,000 on the work done by 40 labourers for 9 months in a year.

During the year 1991-92 a contract migrant was paid Rs.3000 to Rs. 3500 on an average and he worked at the work site for 6 to 9 months during the year.

A labourer is free to enter or leave the system. Anyone who is willing and capable of withstanding the hard manual work for a specific period at a specific worksite at the wage rate given by the contractor is free to enter into the contract system. But if he/she takes an advance amount higher than what he/she is capable of repaying during the specific period, he/she may continue to work in the same capacity in the next season to repay the balance amount. If the labourer does not want to work in the system in the next season, the balance amount may have to be repaid along with interest charged on the same. This is a subjective decision by the maistry partly based on the cordiality of his relations with the workers.

#### Incidence of Contract Migration in Dokur

It was noted that virtually all regular farm labour (RFL) and contract migrant labour are from the same households. A decade later, even in

1991-92, about one third (36 per cent) of the contract migrant households are also the ones which supply RFLs. 8 per cent of all the labourers in the village migrate the percentage of both male and a female migrant is higher among landed labour households. Thus, the landed status seems to have positive influence on one's decision to migrate out in this system. From the sample households it is estimated that on the whole about 100 contract migrants and 200 casual migrants out of a total of 600 labourers have left the village in search of work in that year. This results show that despite the land owning by the population, still it influences migration for the reasons of securing better remittance which in turn enhance the income of the member of the house hold.

#### Characteristics of Contract Migrants and Households in Dokur:

Average age of contract migrant is 28 years. These contract migrants on an average have an experience of 7.5 years. Almost all the contract migrants are from backward castes and scheduled castes. One or two members from a household may participate in the contract migration whereas the whole household moves out in casual migration. In the crop production or for investment in land etc., seem to induce a household to send one or two of its members into this migration system. The higher household size also suggests that the migration is adopted as a strategy of allocating the human resources rationally to avail the credit and use it to meet a major expenditure. The marital status, per capita income, per capita land and dependency ratio of the household are found to be significantly influencing the decision of a labour household to send its members into contract migration. Married persons usually the

expenditure is met with the advance amount taken from the maistry and hence the positive signs displayed by the variable marital status.

The higher the dependency ratio of a household and the higher the indebtedness the higher the probability of a labour migrating out. The importance of advances providing attraction to the labourers to opt for this system comes out from this. Also the burden of dependents and bigger household size compel the labourers to migrate out. As the dependents are also fed at the work site by the contractor, the larger the number of dependents a labourer has to feed the higher the probability of his and spouse's migrating out in this system. The significant positive sign of the per capita operated land and the borrowed amount suggest that the landed status of a household has higher probability of sending one of its members into this system, on account of the attraction of the lump sum advance amounts which may be utilized to meet crop expenses of some other on land etc.

#### Consequences of Contract Migration

If the migration wage rate is higher than the local rate, many labourers might be attracted to migrate out and the resulting contraction in labour supply might push up wages in the village.

#### Impact on Labour Households

Almost two-thirds of the contract migrant households have utilized the lump sum advances either to buy an asset or to clear the debts made on account of buying an asset. About one-fifth of this purpose of meeting the marriage though an unproductive expenditure, it is a social obligation for the labour household and helps reinforce its social status in the

community. This migration certainly reduces the labour supply in the village and this would have a positive influence on the wages. An explanation for the employment of Migrants instead of local labour. The casual labourers at the destination (in Gujarat in the nearby areas of work site) get much higher wage rates than those paid to the migrants. The local male labourers in Gujarat at the work site get a wage rate of Rs.35 and the local female labourers get Rs.25. They are not provided food, while the immigrants are given Rs.10 towards food per day. Further, the local labourers work from 9 a.m to 5 p.m. The migrants are camped right at the work site, thus making themselves available to the employers throughout the day unlike the local labourers who are available strictly during the work hours.

#### Casual Migrant Labour System.

The other form of seasonal migration viz., Casual migration especially takes place during the lean season in Dokur viz., from January-June when the village tank dries up and there is no possibility of growing crops in the substantial portion of the village agricultural lands. Whereas the bulk of Dokur migrants work in low paid occupations such as earth work and drainage and sewage cleaning, .Thus contract migrants seem to be better off mainly on account of the interest-free advances extended to them by the maistry. Extent of employment opportunities inside and outside the villages even when compared, the expected wages migrants from Dokur are earning higher wages in the villages which indicates that they are “pushed” out of their village in search of livelihood. <sup>112</sup>

From the preceding paras it was can be observed that the phenomenon of migration is adopted by the labour force in order to improve their social and economic status and migration has become a prominent ingredient for the development of the human society.

The law makers having noticed the plight of the migrants have come out with the legislation for ameliorating the living conditions of migrant work force.

Salient features of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Services) Act, 1979

- (i) The Act applies to 'every establishment in which five or more inter-state migrant workmen are employed or who were employed on any day of the preceding twelve months; to every contractor who employs or who employed on any day of the preceding twelve months'.<sup>113</sup>
- (ii) Any migrant worker employed individually outside his/her own state is not covered under the Act. Only those who are employed through contractor/khatadars/sardars are treated as inter-state migrant labour. A 'inter-state migrant workman' means any person who is recruited by or through a contractor in other than his/her 'native' state under an agreement or other arrangement for employment in an establishment in the state other than his/her 'home' state whether with or without the knowledge of the principal employer.<sup>114</sup>
- (iii) The Act prohibits any 'principal employer'<sup>115</sup> (head of the office or department) factory owner/manager; mine

owner/manager from engaging migrant worker in his/her establishment 'unless a certificate of registration in respect of such establishment issued under this Act is in force'.

- (iv) Every contractor is required to obtain a licence from a licensing officer, appointed by the state government, for recruiting any person in a state for the purpose of employing him in any establishment in another state. <sup>116</sup>
- (v) The contractor is required to issue to every inter-state migrant workman, a passbook affixed with a passport size photograph of the workman and indicate information about the worker, including payment, advances paid etc.
- (vi) The contractor is required to pay every migrant labourer at the time of recruitment a displacement allowance equal to 50 per cent of the monthly wages payable to him/her or Rs.75/- whichever is higher. <sup>117</sup>
- (vii) A journey allowance of a sum not less than the fare from the place of residence of the interstate migrant workman in his state to the place of work in the other state shall be payable by the contractor to the worker both for the outward and return journey, and he/she will be entitled to payment of wages during the period of such journey as if he were on duty. <sup>118</sup>
- (viii) Any violation of the provisions of the Act is an offence which is non-cognizable. 'No court shall take cognizance of any offence under this Act except on a complaint made by, or

with the previous sanction in writing of, an inspector or authorized person and no court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class shall try any offence punishable under this Act. <sup>119</sup>

Though the ISMW Act, 1979 was enacted by parliament on 11.6.1979, the implementation of the Act has been as snail pace and the reach of the benefits to the inter-State migrant workmen is prone to critics due to intricacies of the legislation. Public interest litigation before the Supreme Court has drawn the attention of the judiciary. The outline and facts of case needs reference. In *Salal Hydro-electric Project v. Union of India* <sup>120</sup> case the Supreme Court has taken up the issue of migrant labour in a comprehensive manner and observed that “This is one of those cases by way of public interest litigation where positive results have been achieved for the benefit of the workmen employed on the Salal Hydro Electric Project as a result of judicial intervention. Suffice it to state that this litigation was started on the basis of a letter addressed by the People's Union for Democratic Rights to J. D.A. Desai enclosing a copy of the news item which appeared in the issue of Indian Express dated 26th August 1982 pointing out that a large number of workmen working on the Salal Hydro Electric Project were denied the benefit of various labour laws and were subjected to exploitation by the contractors to whom different portions of the work were entrusted by the Central Government. The letter was treated as a writ petition and by an order dated 10th September 1982. This Court also directed the Labour Commissioner, Jammu to visit the site of the Salal

Hydro Electric Project and ascertain (i) whether there are any bonded labourers employed on this project and if so, to furnish their names; (ii) whether there are any migrant-workmen who have come from other States (iii) what are the conditions in which the workers are living and (iv) whether the labour laws enacted for their benefit are being observed and implemented. Pursuant to this order made by the Court, the Labour Commissioner, Jammu visited the site of the Salal Hydro Electric Project and made an interim report on 11th October 1982 and this was followed by a final report dated 15th October 1982. The Court also directed that the Union of India and the Chief Labour Commissioner (Central) should file their affidavits within two weeks from the date of the order dealing with the various averments made in the two reports of the Labour Commissioner, Jammu and particularly the final report made by him, since the final report disclosed prima facie that there were certain violations of labour laws committed by the Central Government and the contractors. The Court also directed that "the Union of India and the Chief Labour Commissioner (Central) shall ensure that hereafter minimum wage is paid directly by the Central Government or the contractors as the case may be, to the workmen employed by them without the intervention of any subcontractor or jamadar or khaddar and without any deduction whatsoever except such as may be authorised statutorily. The reference to sub-contractors in this order will be confined only to those sub-contractors who have not been licensed under the Contract Labour (Regulation and Abolition) Act 1956, because if any such sub-contractors have been licenced, they would fall within the

definition of Contractors and would therefore be liable for payment of minimum wage directly to the workers without any deduction. The Court thereafter heard the writ petition on merits in the light of the two reports made by the Labour Commissioner, Jammu and the affidavit filed by H.S. Raju on behalf of the Union of India and gave an interim judgment on 2nd March 1983. The Court pointed out in the interim judgment that the Salal Hydro Electric Project was a gigantic power project undertaken by the Government of India and it was entrusted by the Government of India to the National Hydro Electric Power Corporation for execution on agency basis. Certain portions of the work in connection with the project were being executed by the National Hydro Electric Power Corporation itself through workmen directly employed by it, while certain other portions of the work were entrusted to contractors, through four employers/agencies namely were Hindustan Construction Company Limited, Gammon India Limited, T.R. Gupta Private Limited and Asia Foundation Construction Company. . These various contractors were in their turn doing a part of the work entrusted to them through workmen directly employed by them while a part of the work had been allotted by them to sub-contractors described as "piece wagers". But the sub-contractors or piece wagers to whom different portions of the work had been entrusted by the contractors did not hold any licence, though they fell within the definition of the word "Contractor" in Clause (c) of Section 2 of the Contract Labour Act. The Court therefore by its interim judgment directed the Central Government as the enforcing authority to take immediate steps for ensuring that the sub-contractors or piece

wagers do not execute any portion of the project work without obtaining a licence under Section 12 Sub-section (1), and carry out their obligations under Sections 16 to 21 read with Rules 41 to 62 of the Contract Labour (Regulation and Abolition) Central Rules, 1971. <sup>132</sup> The Court pointed out in the interim judgment that though the National Hydro Electric Power Corporation had provided canteens and rest rooms to its workmen as required by Sections 16 and 17 of the Contract Labour Act and Rules 41 to 50 of the Contract Labour Central Rules, the contractors and piece wagers or sub-contractors had not provided such canteens and rest rooms in breach of their obligations under these provisions nor were adequate washing facilities provided at work sites, ; though there was clearly an obligation on the contractors as also on the piece-wagers or sub-contractors to do so under Clause (c) of Section 18 read with Rule 57. The Court, therefore, directed the Central Government "to take immediate steps for ensuring that canteens, rest rooms and washing facilities are provided by the 2 contractors and the piece-wagers or sub-contractors to the workmen employed by them in accordance with the requirements of Sections 16, 17 and 18 Clause (c) read with Rules 41 to 50 and 57. Since it appeared from the final report of the Labour Commissioner, Jammu that some minors were found to have been employed on the project site, the Court directed that in compliance with the requirements of Article 24 of the Constitution no child below the age of 14 years should be allowed to be employed in the work of the project. It was also pointed out in the interim judgment that the Central Government should take care to see that necessary facilities

for schooling were provided to the children of construction workers, whenever any construction project was taken up which was likely to last for some time. The Court accepted the conclusion set out in the final report of the Labour Commissioner, Jammu that there was hardly any irregularity in so far as payment of wages to the workmen employed by the National Hydro Electric Power Corporation and the contractors was concerned but observed that the final report showed that in case of workmen employed by the piece-wagers or sub-contractors, payment of wages was made directly only to those workmen who were employed individually and to other workmen, like Oriya labourers who were employed in groups, wages were paid through khatedars and in this latter case, there were complaints of deductions by khatedars on account of advances made to the workmen, messing charges etc. The Court, therefore, proceeded to give a direction in the interim judgment that so far as the workmen employed by the piece-wagers or sub-contractors were concerned, wages should be paid to them directly without the intervention of any khatedars and without making any deductions except those authorised by, statute and such payment of wages should be made in the presence of an authorised representative of the Central Government or the National Hydro Electric Power Corporation. The Court also accepted the validity of the complaint made on behalf of the workmen that overtime wages earned by the workmen were not received by them in their entirety and almost 50% was taken away by khatedars and that weekly off days with wages were also not being allowed to them by the piece-wagers or subcontractors. The Court, therefore,

directed that close and searching inspections must be carried out by the Inspectorate staff with regular frequency and such inspections must be detailed and thorough, for then only it would be possible to ensure that every payment of wages, whether normal wages or overtime Wages, is made directly to (he workmen without any deductions in the presence of an authorised representative of the Central Government or the National Hydro Electric Power Corporation. The Court pointed out that the final report of the Labour Commissioner, Jammu showed that the provisions of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 (hereinafter referred to as Inter-State Migrant Workmen Act) **were not being implemented** at all and the workmen were denied many of the benefits and advantages provided under that Act even though it had come into force on 2nd October 1980 and the Rules made under that Act had also been brought into force with effect from the same date and consequently, the Court directed the Central Government to take immediate steps for enforcement of the provisions of the Act and the Rules made under it in regard to Inter-State migrant workmen employed in the project work. These were the detailed directions given by the Court in its interim judgment for compliance by the various authorities.

The Central Government immediately, with a view to securing compliance with the various directions given by the Court in the interim judgment, issued a Circular dated 22nd March 1983 to all the Engineers-In charge of the project who was principal employer(s) as also to all the

contractors and sub-contractors or piece-wages directing immediate compliance with the following directions:

That no child below the age of 14 years is employed by any contractor/sub-contractor on any work place in the Project. In case any child labourer is engaged by any contractor/sub-contractor immediate orders for their engagement should be issued forthwith and a report furnished to the undersigned. That every workmen employed by the contractor/sub-contractor should be given a compulsory weekly off with wages and a compliance report is furnished forthwith.

That all the contract labour employed by your contractor/subcontractors (Piece Wagers) should be paid their wages @ Rs. 10/-per day in presence of the authorised representative nominated by you to witness and verify the payments. Any payment, not made in presence of such a representative and not certified by him will not be reckoned as an authentic payment. Ordinarily no workmen employed by the contractor/sub-contractors be put to work on over time, but in case of exigencies for working on over time, the workman should be paid at the rate of double the ordinary rate of wages, in presence of your authorised representatives.

The Engineer-in-Charge (Principal Employers) and the representative nominated by them for witnessing the payments should ensure the payment of wages on account of over time put in by the workmen engaged by the contractors/sub-contractors in time and in full directly to the concerned workmen without any unauthorised deduction whatsoever.

The Engineer-in-Charge (Principal Employers) should immediately direct the contractors/sub-contractors to supplement the existing number of latrines & urinals by constructing additional seats wherever required and to provide sufficient number of rest rooms so as to meet the requirement of Section 17 and 18 of the Contract Labour (R & A) Act 1970. In case the contractors/subcontractors fail to provide the same within one week, the Engineer-in-Charge (Principal Employers) should take immediate steps to provide the same in accordance with Section 20 of the Contract Labour (R & A) Act, 1970 and recover the amount so incurred from the contractors/sub-contractors.

That all the facilities provided under Section 16 of the Inter-State Migrant Workmen Act, 1979 are provided to the Contract/Inter-State Migrant Workmen as already instructed vide this office No. P & A/P-IV/100(CL)/82/58176-236 dated 2.12.1982.

That every inter-State migrant workmen is paid displacement allowance at the time of his recruitment and the journey fare in accordance with Section 14 & 15 of the Inter-State Migrant Workmen Act, 1979.

The Central Government also addressed a letter dated 22nd March 1983 instructing the Manager of the National Hydro Electric Power Corporation to ensure that the above directions were carried out by the National Hydro Electric Power Corporation and the contractors and sub-contractors or piece-wagers. This letter pointed out that the Engineers-in-Charge of the National Hydro Electric Power Corporation were

already registered under the Contract Labour Act and pursuant to the directions given by the Court in its interim judgment, they had made applications for registration as principal employers under the Inter-State Migrant Workmen Act and so far as the contractors were concerned, they held licence under Section 12 Sub-section (1) of the Contract Labour Act, and had also applied for licence under Section 8 of the Inter-State Migrant Workmen Act <sup>132</sup> but since the sub- ' contractors or piece wagers were without any licence under Section 12 Sub-section (1) of the Contract Labour Act and Section 8 of the Inter-State Migrant Workmen Act, they were directed to immediately proceed to apply for such licence before 31st March 1983. The Central Government pointed out that the National Hydro Electric Power A Corporation as also Hindustan Construction Company Limited and Gammon India Limited had already provided canteen facilities at work places and these canteen facilities were available not only for the workmen employed by them but also for the workmen employed by the contractors and the sub-contractors or piece wagers. But even so the Central Government instructed the other contractors as also sub-contractors or piece wagers to provide additional canteens. The Central Government also stated in this letter that the contractors had already been directed by the respective principal employers to provide rest room facilities by 30th April 1983. So far as drinking f water facilities were concerned, it was pointed out by the Central Government in this letter that arrangements for sufficient supply of drinking water had already been made at work places "both by the project authorities as well as by the main contractors". The Central

Government observed in this letter that a few latrines and urinals had already been provided by the major contractors for the use of the workmen employed by them but there was scope for providing additional latrines and urinals and the contractors had accordingly been instructed to increase the number of existing latrines and urinals. This letter reiterated that the Engineers-in-Charge had already issued instructions to the contractors and the sub-contractors or piece wagers to provide all the facilities stipulated under the Contract Labour Act "with a warning that in the event of their failure the same shall be provided at their cost by the principal employers themselves". The Central Government also pointed out in this letter that instructions had already been issued to the contractors and the sub-contractors or piece wagers that wages must be paid directly to the workmen in the presence of an authorised representative of the Central Government or the National Hydro Electric Power Corporation and if that was not done, the amount of the wages would be deducted from the amount payable by the National Hydro Electric Power Corporation to the contractors and the sub-contractors or piece wagers and so also in regard to overtime wages which must be paid at double the rate of ordinary wages.. The Central Government also reiterated that instructions had already been issued prohibiting employment of children below the age of 14 years and the Engineers-in-Charge as also the contractors and the sub-contractors or piece wagers had been directed to provide to the workmen compulsory weekly off day with wages. The annexures to the letter gave particulars of the Oriya Dadan labour employed directly by the contractors as also

by the sub-contractors or piece wagers as on 21st March 1983 and these annexures showed that 156 Oriya Dadan workmen were employed by the major contractors while 1130 Oriya Dadan workmen were employed by the sub-contractors or piece wagers. The annexures also gave particulars of the non-Oriya workmen employed by the contractors as well as the sub-contractors or piece wagers as on 21st March 1983 and these particulars showed that 1124 Bihari workmen and 2004 other workmen were so employed. The Manager of the National Hydro Electric Power Corporation in his turn issued a letter dated 23rd March 1983 passing on these directions to the contractors instructing them to take immediate action within a period of 7 days. These directions were substantially carried out by the contractors and they intimated to their respective principal employers that their subcontractors or piece wagers had already applied for licence under Section 12 Sub-section (1) of the Contract Labour Act and those sub-contractors or piece wagers to whom the provisions of the Inter-State Migrant Workmen Act were attracted had also applied for licence Under-Section 8 of that Act and that so far as the other amenities and facilities required to be provided under these two statutes were concerned, they were by and large provided and some deficiencies in providing these welfare amenities were being set right. . The National Hydro Electric Power Corporation pointed out in the application that immediately after the interim judgment of the Court, an internal committee was constituted for ensuring compliance with the various directions given by the Court in so far as they related to the National Hydro Electric Power Corporation and this committee "visited

the Salal Hydro Electric Project and after detailed discussions at the level of the General Manager with the various contractors and officers of the project etc. detailed instructions were issued for ensuring compliance with the directions" given by the Court. The application also gave in a tabulated form a statement showing compliance with the various directions given by the Court supported by copies of the various documents to which we have just referred. It is not necessary to set out in detail the facts showing compliance with the various directions given by the Court in its interim judgment, but suffice it to state that it is clear from the documents and statements produced by the National Hydro Electric Power Corporation that these directions have been substantially complied with by the National Hydro Electric Power Corporation as also by the contractors and sub-contractors or piece wagers.

The writ petition thereafter came up for hearing on 6th May, 1983 along with the application of the National Hydro Electric Power Corporation for being impleaded as a respondent to the writ petition. The Court after hearing the parties made an order on the same day directing that the National Hydro Electric Power Corporation should be added as a respondent of the writ petition and that the National Hydro Electric Power Corporation should file an affidavit on or before 18th July, 1983 stating as to what further steps they had taken and were proposing to take "for the purpose of effective implementation of the labour laws". Kulbhushan Raina, Assistant Manager (Personnel) Salal Hydro Electricity Project thereafter in pursuance of the order made by the Court, filed a further affidavit on 10th July, 1983 stating that pass-books

printed in the prescribed manner had been supplied to the contractors and the sub-contractors or piece wagers for issuing the same to individual inter-State Migrant workmen as required by Sub-section (6) of Section 12 of the Inter-State-Migrant Workmen Act and that so far as the 6 major contractors were concerned, two of them namely M/s. Asia Foundation and Construction Company and M/s. S.C. Puri had already completed their work and wound up their establishment and out of the remaining four major contractors, T.R. Gupta Private Limited and National Projects Construction Corporation Limited had confirmed payment of displacement allowance to the inter-State migrant workmen but the other two major contractors, namely, Hindustan Construction Company Limited and Gammon India Limited had raised doubts about the applicability of the Inter-State Migrant Workmen Act to the workmen employed by them since according to them the workmen employed by them including the Oriya workmen were engaged through the local employment exchange and were not brought front their home States as contemplated in that Act. But even so, stated these two contractors, they had instructed their sub-contractors or piece wagers to apply for licence Under-Section 8 of the Inter State Migrant Workmen Act and they were paying to their workmen travelling expenses and journey allowance. Kulbhushan Raina stated in his affidavit that despite this contention raised by Hindustan Construction Company Limited and Gammon India Limited, the National Hydro Power Corporation had deducted Rs. 10000/- and Rs. 50000/-respectively from payments due to Hindustan Construction Company Limited and Gammon India Limited

to cover payments in respect of displacement allowance. It was also pointed out by Kulbhushan Raina on oath that all Engineers-in-Charge as also all contractors and sub-contractors or piece wagers had obtained "registration certificates -licences under the Contract Labour Act as well as under the Interstate Migrant Workmen Act" and that all facilities required to be given to workmen under these two statutes were being provided to them. Kulbhushan Raina also averred in his affidavit that over-time wager at double the rate of ordinary wages were being regularly paid by the contractors and the sub-contractors or piece wagers in the presence of authorised representative of the principal employers as well in the presence of the Central Labour Enforcement officers and he further added in paragraph 8 of the affidavit:

All the contractors and sub-contractors have confirmed that they have now provided rest-rooms for the use of their respective contract labour in accordance with the directions/orders given by the Management of Principal employers. Sufficient number of latrines/urinals, washing and bathing points and clean workers colonies have been provided at various work sites by contractors as confirmed by Principal employers. In addition to canteens provided by the contractors at different work places, the management of principal employer has also provided canteen facilities open for all workmen categories also at projects where the food on subsidised rates on non profit no loss basis and a full breakfast costs only Rs. 1.25 and a full meal costs only Rs. 2/-. Canteens are opened by the Management and are open for every body whether a workmen or an officer of the project. Kulbhushan Raina also thereafter filed a further

affidavit on 3rd October, 1983 enclosing a chart showing compliance with the various directions given by the Court in its interim judgment. He also filed along with his affidavit a number of affidavits made by contractors such as National Projects Construction Corporation Limited, Gammon India Limited, Hindustan Construction Company Limited and T.R. Gupta Private Limited and their sub-contractors or piece wagers. These affidavits along with the affidavit of Kulbhushan Raina clearly show that the various directions given by the Court in its interim judgment have been complied with and that the provisions of the Contract Labour Act, Inter-State Migrant Workmen Act and the Minimum Wages Act are being observed by the National Hydro Electric Power Corporation as also by the contractors and the sub-contractors or piece wagers employed by them. We may point out that on an application made by the petitioner we directed Gammon India Limited and M/s. Gopi Nath Samanta a firm working as sub-contractors or piece wagers to inform the Court as to whether wages were being paid by them to the workmen at the same rate at which they were being paid by the principal employers, namely, National Hydro Electric Power Corporation and accordingly, R.D. Chopra on behalf of Gammon India Limited and Gopi Nath Samanta filed affidavits slating that they were complying with the provisions of the labour laws and were paying wages to the workmen at the prescribed minimum rate of Rs. 10 per day. We are satisfied on the material placed before us that the National Hydro Electric Power Corporation as also the contractors and the sub-contractors or piece wagers are now complying with the provisions of

the Contract Labour Act, Inter-State Migrant Workmen Act and the Minimum Wages Act and the welfare amenities required to be provided under these statutes are being made available to the workmen employed on the Salal Hydro Electric Project. **But even so, we would direct the Central Government to tighten up its inspection machinery and to ensure that close and detailed inspections are carried out by fairly senior inspection staff at frequent intervals, because unless there is constant vigilant scrutiny, the observance of labour laws which the Court has been able to secure as a result of its judicial intervention, may again become slack and the construction workers who constitute by and large an unorganized sector of the labour force may not be able to bring such non-observance of labour laws to the notice of the Court.**

On perusal of the detailed judgement it is amply clear that the Central Government is required to strengthen its enforcement machinery for proper implementation of the Inter State Migrant Workers Act 1979. Also, it would be not in appropriate to place that much literature speaks about availing of scant benefits by the migrant workers due to lack of thrust put forth by the functionaries of the Government. Despite the directions of the Supreme Court, the working of the Act has been far from satisfactory and this has drawn attention of the policy makers by constitution of a committee. The committee has come out with its valuable recommendations and the same is referred to.

The National Commission on Rural Labour <sup>121</sup> to look into the working conditions of this vulnerable section of our society and the implementation of social legislation for their protection.

#### Reasons for Migration

Uneven development is the most important reason giving rise to both pull and push factors causing migration of labourers. Uneven development has two major dimensions. One is inter-regional disparity in economic growth and the other is the disparity between different socio-economic classes. While better employment opportunities and higher wages in economically developed regions attract labour, non-availability of employment opportunities and consequent economic hardships in the under developed regions act as push factors in the migration process. We have a reservoir of rural labour force in the countryside because of failure of land reform and lack of employment opportunities due to lack of infrastructural support in the less-developed regions. Of course, rapid population growth and the slow growth of employment opportunities in the non-agricultural sector have also contributed to the swelling of this reservoir of labour force. The proportion of landless labour has increased significantly. Also, there has been increasing casualisation of labour. As a consequence, inter-regional migration of labour has increased. The casual labour is prone to migrate over longer distances-very often even beyond a thousand kilometers. The probability of different agricultural operations, such as sowing, inter-culturing and harvesting not coinciding between different regions would be greater. This facilitates the migration of casual labour by

inducing them to avail of the opportunities for employment in different regions. Studies reveal that the main industries which attract sizeable number of migrant labour are brick-kiln, quarrying, coffee plantations, building and construction etc.

#### Agencies of Recruitment

Three broad patterns of recruitment operate. First is the direct recruitment by the employers without any hold of middlemen and second is the recruitment with the help of contractors, middlemen or jobless known variously in different parts of the country sardars, maistry, mukddam, thekedars, lambardars, etc. These have deep traditional roots and continue with all its attendant evils. The third types of migrants are those brought by their relatives for employment in different areas and fields. However, by and large, the first two systems prevail. Contract system which works to the disadvantage of migrant workers openly or in a clandestine manner is the dominant practice of recruitment, particularly in areas and industries requiring workers for seasonal operations. In a different environment, such as quarrying, big construction projects, contractor is the most important link between the labourers and the employer. These contractors advance some amount of money to the workers prior to their departure, which may vary from case to case. In the construction industry, a very high percentage of workers enter labour market through labour contractors. No doubt Contract Labour (Regulation and Abolition) Act, 1970 and the inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 seeks to regulate the recruitment of workers through contractors.

However, the licenses taken by the contractors are migrant and it often becomes difficult to pin-point the contractor or the principal employer. It is well-known fact that the unlicensed contractors or other agents far exceed the licensed contractors.

A segment of migrant labour, contract labour and bonded labour have common features. Some of them suffering from abject poverty get bonded in their village and some of those who migrate, get bonded due to the machinations of the contractors. Wages for migrant labourers vary from sector to sector and region to region. Except in a few sectors and regions at a particular period in a year, migrant labourers by and large do not get minimum wages fixed under the Minimum Wages Act 1948. In order to avoid payment of minimum wages and to get extra work in short time payment by piece-rates is gaining ground. As a rule, hours of work are longer. Some studies also point out that migrant workers are prepared to work for lower wages than local labour. The perpetuation of this state of affairs is to some extent due to the fact that the migrant labour is un-organized.

According to a study of the construction industry in Ahmedabad, the sector is characterized by rather low wage rates and most of the workers in this industry are not paid minimum wages. They are also never paid wages for one extra day in a week. Other surveys of the workers in other construction work also reveal that they were not paid minimum wages. A large number of people at building and construction sites in Bombay, Madras and Hyderabad worked over nine hours a day. Unskilled labourers particularly, are made to work for much longer than

nine hours at most of these sites. In Bombay, it was found that only 5 per cent of workers did eight hours of work, while the other 95 per cent did more than eight hours. Another study notes that weekly holidays without wages is a characteristic feature of this industry. This study covered construction workers in Delhi, Pune, Madras and Kaval towns in U.P. Wage structures for skilled and unskilled migrant labourers in the public sector vary from project to project. More often than not labour and or work contracts are given to private contractors, with a condition that the contractors observe all labour laws including the Minimum Wages Act. But this part of the contract generally remains on paper and the principal contractor, that is the government, does not enforce the labour laws strictly. Several examples of minimum wages prescribed by the government not being given to migrant labourers can be cited. In the Sardar Sarovar Project, canal and dam construction workers were compelled to work for more than eight hours without extra payment. Some of the workers were not paid minimum wages. Migrant labourers for the 1982 ASIAD constructions were paid less than minimum wages and women workers were paid less than males for the same work. The condition of women labourers is far more alarming. Wages to be paid to them are decided by the contractors. In spite of the provisions of Equal Remunerations Act contractor to pay equal wages to male and female labourers, more often than not the women labourers. Exploitation of the women migrant labourers especially the tribals is also a matter of deep concern. The migrant laborers in the road construction and building sites of government projects live in highly uncomfortable dwellings. The

migrant labourers working in stone quarries live in scattered jhuggis on the site itself. The Supreme Court Commission for a socio-legal investigation in 1982 into the condition of quarry workers observed that these jhuggies whether away from the site or on it are an insult to human dignity. All of them are so low that a human being is almost reduced to a four legged creatures and women do their chores bent almost half or in a sitting posture.

It is well established fact that there is a segment of migrant workers who are covered by the Minimum Wages Act, Contract Labour Act, Bonded Labour Act, Inter-State Migrant Workmen Act, Workmen's Compensation Act and some of the social security Acts. **Despite these, migrant labourers work and live in dehumanizing conditions,** some relief notwithstanding. The available evidence clearly points out that some of the difficulties emanate from the weaknesses in the Acts itself which are primarily directed towards organized labour.

(i) The most important shortcoming in the I.S.M.W. Act is the definition of the inter-state migrant workmen itself. The definition given in the Act is a limited one which covers only work men recruited by or through a contractor, but does not include those who are engaged directly and not drafted through any contractor. Because of this, the Act does not safeguard the interests of all migrant workmen who leave their state in a much more distressed condition and take shelter of employers in the other states to earn their bread. The definition given is thus discriminatory in terms of extending benefits.

- (ii) The Act applies to every establishment/contractor in which five or more inter-state migrant workmen are employed or were employed on any day of preceding 12 months. There has been a demand that this stipulation of a minimum number of employees for coverage of establishments should be done away with.
- (iii) Though the act provides that no contractor shall recruit or employ migrant workmen, except under licence there is no corresponding obligation for the principal employer not to get work executed through an unlicensed contractor.
- (iv) It has been experienced that the penalties provided for violation of the provisions of the Act are not sufficiently stringent. At present, contravention of the provisions of the Act regarding employment of inter-state migrant workmen is punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both. The provision is not adequate to have deterrent effect. Provision for enabling workers, trade unions and voluntary organizations to initiate action against defaulters is made.
- (v) Section 20(3) of the Act <sup>122</sup> provides that the state from which migrant workers are recruited may appoint Inspectors for the purposes of satisfying that the provisions of the Act are being complied with but appointment of such Inspectors is dependent on the concurrence of the Government of the receiving state Concurrence has been heard to come by whatever may be the reason, this does reflect the attitude of the receiving state. The Sub-Committee of the Ministry of Labour have suggested that the state Govts. May consider setting up office or

appointing Liaison Officer in the recipient state who may liaise with labour department of the state for solving the problems of the inter-state migrant workers. The Supreme Court in salal hydro project case <sup>123</sup> has clarified the legislative intention of Section 20(3) and directed that every state and Union Territory of India would be obliged to permit officers of the states from where migrant labour originates for holding appropriate enquiries within the limits of the Recipient State.

As a result of the large scale influx of migrant labour, real wages of the local labour have not increased in many places. Migrant labourers work at lower wages than local labourers. Because of the migrants, the local labourers are either forced to accept lower wages or shift to other occupations if available. This creates not only ill feelings but also leads to clashes between local and migrant workers. The rich peasants and landlords exploit the rift. This has been detrimental to the organization and struggles of the rural poor for justice. However, despite hardships and exploitation, the incomes of the migrant labour are higher than what they would have been able to earn without migration.

The ISMW Act protects only that migrant worker who is required by the contractor and taken from one state to another. If the workers find their way across state boundaries on their own or if they change jobs after getting there, the Act does not protect them.

The ISMW Act has by and large remained on paper. Most of the states have not developed the machinery for the implementation of the ISMW Act. A few states such as Bihar, Orissa and Punjab have created machinery but it is inadequate to implement the Act effectively. The

demographic characteristics. The region is also dominated by indigenous population belonging to different ethnic groups. The region accounts nearly 9.0 per cent of the country's total geographical area. And its only physical connection to India is a narrow land corridor called the "Chicken's Neck" which is 20 Kilometers wide at its narrowest near the Siliguri [West Bengal]. The constitutional arrangement in the region is also differs from the rest of the country. Even within the region, the administration varies from state to state.

The North Eastern region is known for its social and economic backwardness, socio-political instability and poor delivery system. One crucial feature that attribute backwardness in the region is inadequate investment in infrastructure and human resource development with emphasis on education [higher & technical], vocational training and health. The poor level of institutional development has rather adversely affected the socio-economic development of the region in terms [i] low level of developmental of skills, [ii] production of large number of degree holders without any social and economic relevance.

In the latest 2001 population census, the region recorded a total population of 38,444,026 million people constituting 3.6 per cent of the country's total population.

For scholars studying migration phenomenon, Population Census of India and National Sample Survey [NSS] have remained the main source of data. In 1971 census, data are being collected on the basis of place of last residence in addition to question on birth place. Question on

“Reason for migration” was introduced in 1981. The pattern adopted in 1991 and 2001 census remained same as in 1981.

According to the NSSO migrants are a person, whose last usual place of residence was different from the present place of enumeration on the date of enquiry has been considered as migrants. The NSSO further elaborate the definition of Migrants as- a member of the sample household was treated as a migrant if he/she stayed continuously for the last 6 months or more in a place [village/town] other than the village/town where he/she was enumerated. The village/town where the person has stayed continuously for the last six months or more prior to moving to the place of enumeration [village/town] was referred to as the ‘last usual place of residence’ of that migrated person. Out-migration is refer to any member of a household who left the household for stay outside the state during the last 5 years before the date of survey has been considered as out-migrant provided he or she was alive and residing outside the state on the date of enquiry. Out-migration and In-migration are two sides of the coin. Whoever leaves his or her place of born to live other place is an out-migrant, and as soon as he or she crosses the political border the status of out-migrant changes to that of in-migrants.

#### Literacy and Educational Situation

Literacy is one of the most significant societal elements that hold key to the process of socio-economic development. It is also a key factor determining the human resource development. Thus, one-third of our population still does not possess even the basic proficiency in literacy.”

In the latest population census, country's literacy rates improved impressively from 52.21 per cent in 1991 to 65.38 per cent in 2001. The NER has the literacy rate of 65.7%. In spite of poor development in the economy, degree of urbanization, technological advancement, means of transportation and communication, availability of educational institution, the NER scores over most other states of India in an area of literacy rate. According to the 2001 population census, data on migration by last residence shows that the total number of migrants was 314 million. This constitutes 27.4 per cent of the total population of the country. The 2001 population census indicates of 11,16,861 persons as total inter-state migrants [all duration] of the North Eastern states. The migrants constitute 2.86 per cent of the region's total population. The data indicates that magnitude of migration is considerably low.

It is observed that the West Bengal appears to be the most favourite destination for the people from the NER as revealed by their highest proportion both in 1991 [45.88 per cent] and in 2001 [38.19 per cent]. Despite decline in the proportion of out-migrants from 1991-2001, still the state occupies the top most position in so far as receiving largest number of people from the NER.

Interestingly, the next favourite destination for the NER population appears to be Uttar Pradesh with 25.45 per cent gaining massive proportion from the last population census

The third priority state for the people from NER during 2001 appears to be the national capital Delhi, with 14.51 per cent population gaining 9.20

per cent from the last census. In 2001, it is changed to West Bengal, Karnataka, Maharashtra and Uttar Pradesh.

Considering the overall reasons for migration from the NER, it is noticed that the most common reasons appear to be 'Employment,' 'Family moved,' 'Marriage' and 'Others'. Ranking these reasons in terms of proportion of population, it is noticed that 'Family Moved' appears to be the most important reason both in 1981 and 1991. However, in 2001, Marriage has gained higher currency. Education as reason appears to be very insignificant as revealed by the figures

Among the total migrants from the NER with education as reason for migration is recorded highest in Karnataka in both decades 1991 and 2001. The percentage increased in the decade 1991-2001 was 17.75 per cent. This indicates that Karnataka is hosting many NER's out-migrants for education. Hitherto, in Karnataka state the proportional distribution of education as reason for migration is not that high. This implies that total migrants to the Karnataka consists considerable number people coming for education as well as employment. Indeed, the trends of education related migration from NER to Karnataka is quite exceptional institutions which hosted large number of non-Karnataka people including people from the NER. However, in recent times, Bangalore city, the capital of Karnataka and India's fifth largest and fastest growing city in Asia nicknamed "India's Silicon Valley" has been beckoning people from all regions with its booming economy, in particular, the most flourishing Information Technology [IT] sector.<sup>126</sup> This in turn led to growth of construction industry and there by city of Bangalore is

helping in providing employment to the construction workers and as a consequence of it the in flow of construction workers from other parts of the country is growing day by day. In support of the fact during the course of the field study one of the trade union representative has passed on the magazine to the researcher which reflects the plight of the migrant workers and their struggle in the accomplishing their needs.

**A study of migrant** behaviour in kerala has been carried by the Kerala Statistical Institute <sup>127</sup> and its observations needs a mention

The biggest stream of migrant labour, to the extent of 59 percent, came from the neighboring state of Tamil Nadu. The share of eastern states of West Bengal, Orissa and Jharkand was of the order of 25 percent. Minor flow of migrant workers from Assam, perhaps, indicates that the momentum from the North Eastern states has just begun.

Labour Force status prior to migration: it is hypothesized that mounting demographic pressures and declining economic opportunities in the native state are the more important push factors for migration. In this context it was considered relevant to examine the distribution of labour force status of migrant workers prior to migration.

The survey distribution showed that while 28 percent were seeking work about 65 percent were already working. Further investigation, about the nature of work of those who were reported as working, revealed that about 80 percent were engaged in casual work and 17 percent in self-employment initiatives.

Analysis of the survey data by the state of origin resulted in the prioritized distribution shown below.

Table-21

Plight of migrant workers in Kerala

Distribution of migrant workers by state of origin						
State of Origin	Count			Percent		
	Male	Female	Persons	Male	Female	Persons
Tamil Nadu	259	15	274	57.7	83.3	58.7
West Bengal	68		68	15.1	0.0	14.6
Jharkhand	25		25	5.6	0.0	5.4
Orissa	22		22	4.9	0.0	4.7
Andhra Pradesh	18		18	4.0	0.0	3.9
Karnataka	16	1	17	3.6	5.6	3.6
Madhya Pradesh	16		16	3.6	0.0	3.4
Assam	13		13	2.9	0.0	2.8
Other states	12	2	14	2.7	11.1	3.0
All states	449	18	467	100.0	100.0	100.0

Distribution of migrant worker by labour force status prior to migration						
Labour Force status prior to migration	Count			Percent		
	Male	Female	Persons	Male	Female	Persons
Working	293	8	301	65.3	44.4	64.5
Unemployed	120	10	130	26.7	55.6	27.8
Labour Force	413	18	431	92.0	100.0	92.3
Outside labour force	36	0	36	8.0	0.0	7.7
Grand Total	449	18	467	100.0	100.0	100.0

Table -22

**Source of solicitation for migration:** The survey data on the subject revealed interesting insights and the distribution below is relevant in this context.

Distribution of migrant worker by source of solicitation for migration						
Source of solicitation and recruitment	Count			Percent		
	Male	Female	Persons	Male	Female	Persons
Friends	72	2	74	16.0	11.1	15.8
Contractor	155		155	34.5	0.0	33.2
Relatives	203	11	214	45.2	61.1	45.8
Agents	1		1	0.2	0.0	0.2
Others	18	5	23	4.0	27.8	4.9
All Sources	449	18	467	100.0	100.0	100.0

Distribution of first time migrant workers							
Labour Force status before migration	Count			Percent			All cases
	First time	Not first time	All Cases	First time	Not first time	All cases	
Working	290	11	301	63.6	100.0	64.5	
Unemployed	130		130	28.5	0.0	27.8	
Labour force	420	11	431	92.1	100.0	92.3	
Outside labour force	36		36	7.9	0.0	7.7	
All statuses	456	11	467	100.0	100.0	100.0	

**Reasons for migration:** The survey results revealed that one of the strongest motivating factors for persons to migrate is the hope for better remuneration. While 68 % reported better remuneration as the major factor, 21 percent mentioned economic compulsions as the motivating cause for migration.

<b>Table-23</b> Distribution of migrant workers by reasons for migration						
Reasons for migration	Count			Percent		
	First time	Not first time	All Cases	First time	Not first time	All cases
Economic compulsion	96	4	100	21.1	36.4	21.4
Better remuneration	314	5	319	68.9	45.5	68.3
Prospects for regular work	34		34	7.5	0.0	7.3
Marriage	7	2	9	1.5	18.2	1.9
Others	5		5	1.1	0.0	1.1
All reasons	456	11	467	100.0	100.0	100.0
<b>Distribution of migrant workers by sector of engagement</b>						
Sector	Count			Percent		
	Male	Female	Persons	Male	Female	Persons
Mining	1		1	0.2	0.0	0.2
Manufacturing	12	2	14	2.7	11.1	3.0
Construction of roads	1		1	0.2	0.0	0.2
Construction of buildings	222		222	49.4	0.0	47.5
Other Constructions	12		12	2.7	0.0	2.6
Trade	68	3	71	15.1	16.7	15.2
Hotels & restaurants	74	1	75	16.5	5.6	16.1
Transport & communications	5		5	1.1	0.0	1.1
Personal services	30	11	41	6.7	61.1	8.8
Others	24	1	25	5.3	5.6	5.4
All sectors	449	18	467	100.0	100.0	100.0

It is appealing to note that economic compulsions and better remuneration remained the major factors particularly for the first timers. Data collected on sectors of engagement yielded the following distribution.

Compensation for work-Cash: Data on cash compensation for work, on analysis, resulted in the following distribution. On an average a worker get a wage of Rs. 121.21 per day. This is much less than the average wage rate for an unskilled native worker. The low wage rate together with the possibility of engaging the workers for a longer duration present a cutting edge to the employers/entrepreneurs.

Linkages: In migration related enquiries it is customary to investigate who migrates and who are all left behind in the native state. In general young male members migrate, in most cases, temporarily. Women and old men are left behind as they realize that they cannot compete in the labour market. But then the male migrant keeps up the linkages with their parents/wife and children/ other relatives in their native places.

About 81 percent of the migrants reported leaving parents in the native state, whereas 50 percent left their spouse and children. Only 4 percent reported that they have nobody in their native state.

Remittances: The implication of internal migration as a means to escape poverty needs no reiteration. 'Remittances by migrant workers to their family' assumes significance in this context. The study reveals that about 91 percent of the workers report regular remittances to their kith and kin.

Table -24

## Deployment of construction workers-kerala

Nature of engagement	Male	Female	Persons	Rural	Urban
Regular	149.01	86.67	143.40	98.53	152.59
Seasonal	111.74	-	111.74	-	111.74
Contractual	173.57	-	173.57	-	173.57
Casual	115.88	76.43	115.03	108.03	115.82
Others	102.00	37.50	91.25	7.50	145.00
All cases	122.97	77.22	121.21	97.59	124.43

Periodicity of remittances						
Periodicity of remittances	Count			Percent		
	Male	Female	Persons	Male	Female	Persons
Weekly	80	0	80	19.3	0.0	18.8
Fortnightly	49	0	49	11.8	0.0	11.5
Monthly	163	6	169	39.4	50.0	39.7
Others	122	6	128	29.5	50.0	30.0
All cases	414	12	426	100.0	100.0	100.0

Looking at the periodicity it is seen that monthly remittance seems to be the most preferred mode. This case details the plights and predicaments of pobin, aged 36, migrated from West Bengal in the year 2001. On account of limited opportunities at the native place he was forced to move out. He went in search of job to Orissa and Andhra Pradesh before coming to Kerala. He is a mason by occupation. He came to Kerala in 2001 through a contractor and has been working in the state on different construction sites. In the present site he is working from the August 2006. He has a regular job with the present contractor who pays him about Rs. 4500/- per month and food at the work site. He regularly remits around Rs. 3000/- for the upkeep of his wife and children who were left behind. On an average he makes a trip once a year during rainy season. He said his wife toils around as a casual wage labour. But she hardly gets work for 10 days in a month and that too at very low rate of Rs. 55/- per day. We got a loan from the local moneylender to buy and raise few cattle to supplement our family income. We got cheated in the process. With the remittance that I send my wife has to repay the loan, meet family expenses and spend on medicines for my ailing mother. We are really having a hard time'. He said 'As we are deprived of the means to improve our living conditions in our native village, we had to abandon life with our family and migrate in search of wage labour in urban areas. When I left my village I never thought that I would come to Kerala. I am happy that I came here. Keeping this perspective he works very hard to be in the good books of the contractor. He says that he works for about 12 to 14 hours per day.

Pobin knows very well that he and other skilled migrant workers like him are underpaid, but the prospects of regular work keeps them bound to the contractor.

The scope of the enquiry was confined to ‘temporary workers who come to Kerala from other states in India to take up work especially in construction, non-agricultural production and service sectors’. Entrepreneurs, builders, contractors are becoming increasingly more and more unwilling to cooperate with the investigating team. This happens mainly on account of inhibitions, fear and other allied complexes. This is more so when the investigation focuses on migrant workers, their working and living conditions and allied issues. They may also induce the migrant workers not to cooperate. Procedures need be established to overcome such resistances.

As a part of review of existing literature, the researcher had the opportunity to visit the Library, Centre for Development Studies, Thiruvanthapuram. The finding of “Migrant Construction Workers- A Case study of Tamil workers in kerala .<sup>128</sup>” needs a mention.

The daily wage received by male agricultural labourer in kanyakumari in the peak month of July is even less than that of the annual average daily agricultural wage in kerala.

The wage differential between the daily wage in kanyakumari and daily wages in construction in kerala is even larger. The difference in wages attracts immigration into kerala.

As it is observed in the study that majority of workers seem to have been working with the present contractor for two years or less. Migrants

frequently shift contractors and stay with a particular contractor for not more than 1.8 years on the average.

The reasons for workers changing the contractors are

- Disputes over the wage rate and accusation of manipulation of accounts
- Desire to acquire more skill.
- Expected duration of employment then searches other while on hand is nearing completion.

Table-25

Distribution of migrants according to number of years “as migrants and number of contractors worked with”

SI NO	No. of years as migrants	No. of contractors worked with				Total No. of migrants	Average No. of years as migrants	Average No. of contractors worked with	Average No. of years worked with contractor
		1	2-4	4-8	>8				
01	0-5 years	13	10	02	-	25	2.8	2.1	1.3
02	5-10 years	2	15	4	2	23	7.7	4	1.9
03	10-15 years	-	3	3	2	8	12.9	7.9	1.6
04	15-25 years	1	-	1	10	12	20.3	14.4	1.4
05	25-35 years	-	-	3	2	5	3.1	8.6	3.6
	Total	16	28	13	16	73	10.2	5.8	1.8

It is quite apparent that while the Tamil workers are on the job for 10 hours the keralite workers put it no more than 7-8 hours and yet receive a higher wage. Subsistence Remittance money sent to home is high by a migrant where as the money sent by a keralite is half of his daily wages.

**Kanyakumari district in Tamil Nadu to kerala in Construction sector.**

- Even stagnant per capita availability of employment in both agricultural and industrial sector and raise in population has forced people to look else where for work.
- eagerness for skill acquisition is more from helper to mason
- wage differential prevalent in the industry
- grant of advances
- breach in compliance of legal provisions for these migrants
- Migrant workers life in kerala is that he is completely cut off from the local population with no social contact what so ever. The local population also sees the migrant workers with disdain as workers who are docile and willing to work longer hours at lower wages not surprisingly they are not part of the mainstream of trade union movement either.
- Two aspects of migration
  - a) Unskilled or semi skilled cheap supply of labour
  - b) Migrant workers earn more in kerala when compared to kanyakumari

A study on **migration in Bangalore**<sup>129</sup> has been carried out its inputs have been placed as under. Migration to cities in developing countries can be visualized in two broad categories on temporal scale. The first is permanent migration. This kind of migration takes place when an aspiring migrant gives up his residence at his native village or place of his birth and makes a new beginning at one of the burgeoning cities in

his country. This is one straight movement intended to be of permanent nature unless the migrant unsuccessful in his objective is obliged to return home or move on to another place. In the second category is impermanent migration which involves periodic visits involving residence at the destination city for short periods of time seldom exceeding one year at a stretch. The migrant returns to his native village after each visit to the city. Through bi-local residence in the village and the city, he makes a livelihood.

Objective of the study is to assess how far this kind of impermanent migration to city has helped improve the economic condition of the migrant families.

A primary survey was carried out in Bangalore city visiting major construction sites and busy market places where temporary migrants normally congregate for work. Using purposive sampling method and relying on snow ball swelling procedure 503 temporary migrants were identified in the survey. Within a few hours of his arrival in the city, the migrant begins looking for jobs. It is the fellow villager or a relative who has already settled in the village who advises him and inducts him into particular vocation. Labour contractors who visit villages and mobilize gang of workers are another channel for finding work. The majority being unskilled opt for construction work or coolie work. Labour contractors use credit as a means of keeping the migrant workers under subjugation. The migrants have no guarantee of work on all the days they stay in the city. They often suffer forced unemployment for no fault of theirs. However every migrant is positive that he will eventually

return to his village some day or other because he feels he belongs to the village and not to the city.

With rapid increase in population, employment opportunities have shrunk and land has become too scarce in rural areas. Large bodies of landless and marginal land holders need supplementary income. On the other hand urban wage is also too low to provide an adequate livelihood which would allow the migrants to give up agriculture altogether, move to city with the entire family, settle down there and become urbanized. As a result, household is split up with able bodied men migrating to the city. It becomes an economic necessity- a survival strategy- to shuttle between village and city.

Their frequent visits to the village help them maintain close contacts with their people at home. There is no conscious effort on their part to forge working class solidarity. The temporary nature of their jobs, different employers, different locations, different occupations and their low levels of education stand in the way of acquiring any bargaining power in the segmented labour market of the city.

The employers in the construction sector allow the migrant workers to live in make-shift shelters in the project site itself and advance them loans to keep them tied to the work on hand. Migrant workers by and large are loyal to their employers. However when the employer fails to provide continuous work or adequate wages, they either return to their home village or find work with another employer. When a migrant's survival is threatened because of low earnings in his line, he shifts over to some other occupation. Job shifting seldom results in upward

mobility. But it gives the migrant certain amount of autonomy and maneuverability within the system. They often suffer long spells of forced unemployment. When the wage work becomes scarcer the migrant can still create jobs for himself in the city's informal sector as hawker, vendor or domestic help which provides him no more than a subsistence income. Impermanent migrants lack a home address in the city. If they fall out with someone with whom they have money transactions, they can always give the creditor the slip.

Migrants come from various forms of farming background. Construction Work such as excavation, digging, carrying head loads, watering the masonry work is essentially agriculture in nature. They have therefore marked preference for work in construction sector. It seems they believe that certain skills like carpentry or masonry which they can learn in course of time in this line, can be used in the village later to augment income from agriculture. They keep a low profile considered appropriate to their temporary migrant status in the city and are extremely careful in avoiding any controversy or confrontation with city residents. Migrants accept anything as accommodation if it enables them to save on rent and send it home. So they live in squalid surroundings and structures lacking privacy and even minimum creature comforts.

Among the 121 households identified in the tracer survey, as many as 75 households belong to landless families. Another 15 families own less than 2 acres of land and only 31 families own 2 acres or more. The migrant's contribution to family kitty a percentage of household income

tends to decline with increase in landholding size. It appears that the income earned by the migrants in the city is very crucial for the survival of landless families. Temporary migration has not done for the migrant families anything other than preventing them from sinking into deeper poverty.

Seasonal migration is a matter of survival or, at best, of consolidation and hardly ever results in accumulation or reinvestment in the home area. Yet it is certain that, however paradoxical this may sound, a growing percentage of landless and marginal landholding households can support themselves in the hinterland only by absenting themselves from the areas for long periods. The small cultivators try to prevent a slide down in the agrarian ladder or at all events to delay it, by taking part in migration.

The micro level data gathered from migrants and their households substantiate the thesis that temporary migration has great survival value for the rural poor. By extending the rural labour market into the cities it has made possible the subsistence of increasing rural proletariat and the transfer of resources from urban to rural areas. This finding, by no means would suggest that the balance of benefit is in favour of rural areas.

The special features of this type of migration as parasitic relationship between the city and countryside. Migrants are relieved of a considerable proportion of household's reproduction costs by having their families staying in the rural areas and to a large extent growing their own food, largely not paying house rent and generally being catered for outside the

migrants must therefore receive greater attention from urban planners and policy makers. Perhaps city authorities can build low rent community shelters for those who come for a limited period of time. These community shelters for those who come for a limited period of time. These community shelters must be tailored to the needs of temporary migrants, providing them at least a minimal facility like drinking water, electricity, health clinics and day care centres for babies whose mothers go out of work.

The poor leave their villages to escape unemployment especially during slack season in agriculture. Schemes to generate non-farm employment in rural areas need greater attention.

Bangalore has, for long, been a centre of attraction for migrants from Tamil Nadu and Andhra Pradesh and has therefore an ethnically heterogeneous population. As far as the first generation migrants are concerned, three-fourths of the inter-state migrants have come from the neighboring states of Tamil Nadu, Andhra Pradesh and Kerala. Among many possible reasons for coming to Bangalore city, employment motives take precedence over others especially among men. About 49 per cent of the male migrants and 6 per cent of female migrants cited employment reasons for their migration. When women migrants were asked their main reason for migration, about 43 per cent of them indicated marriage. Another 33 per cent of them came to the city for familial reasons accompanying members of their family possibly the main bread winner who had to migrate.

Migrants were, by and large, youthful adults. Fifty seven per cent of males and fifty two per cent of females were aged between 15 and 29 when they moved into the city.

During his fieldwork, the researcher found that every other construction worker and hawker/vendor in the city was a temporary migrant and a non-worker member of the immediate family accompanied nearly one third of such migrants.

Keeping in mind that criteria for identifying a temporary migrant for canvassing schedules have ensured that only hard core temporary migrants are included in the sample.

- a) A temporary migrant cannot have a ration card in the city.
- b) His name should not figure in the city's voter list.
- c) He should not have lived continuously in the city for the last twelve months and lastly
- d) He should have left behind in the village of his origin at least one member of his immediate family.

Impermanent migration has become a way of life for many of the migrants. About 13 per cent of the migrants have been moving back and forth between city and village for more than 10 years. Another 35 per cent of the migrants have been shuttling like this for the last 5-9 years. Only 13 per cent of the migrants in the sample are new to the city having arrived there for the first time in the last one year

Inadequacy of agricultural land with migrant's families, lack of work in the village during off-season in agriculture make city ward migration an

attractive proposition for the rural poor and in the study 502 migrants moved to Bangalore in search of employment.

Labour contractors are yet another channel for finding work. More than one fifth of the migrants found work through them. These contractors often visit villages and recruit landless workers for construction work in the city. They know that landless labourers are willing to work in gangs and accept low wages. Besides, the gangs can be mobilized or disbanded at short notice in response to fluctuations in the demand for labour in the construction sector

Distribution of temporary migrants by the main source of help to get work in the city during their first and current stay in the city.

Temporary migrants do work in the city requiring most rudimentary skills. They are heavily concentrated on low status jobs and this is a reflection on their low education and skill development. The heaviest concentration of temporary migrants was found in construction sector. Construction work such as excavation, digging, carrying head loads is essentially agriculture in nature. Consequently for migrants coming from

The employers who hire migrant labour offer them a variety of sops to keep them from running away and exploit them with a cloak of charity. In construction sector, the workers are given a small patch of land to build a hut. The workers are encouraged to stay in these huts. This enables the contractor to keep surveillance on the movements of their workers. The workers are expected to unload construction materials that arrive by trucks at odd hours in the night and the workers are seldom paid any remuneration for this kind of extra work.

Credit is widely used as a means of keeping the migrant labour force subservient to the labour contractor. The labourers who take loans from their employers or contractors are required to work at very low wages until the loan is repaid completely. In the sample, about 38 per cent of the workers are indebted to their employers. On an average the migrants in sample have worked for 191 days in the city in the past one year. Overall, a migrant manages to get work for 234 days in a year. They keep hunting for jobs the rest of the year. Forced unemployment is an ordeal migrants must face for a considerable length of time every year. The discontinuous nature of work, different locations, and different employers disorients the workers. Seasonal migrants can never identify themselves with a working class group.

When migrants were asked to compare their income in the city with that in their village, an overwhelming majority of them (97 per cent) admitted that they earned more income in the city than in the village. Data suggests that availability of work and opportunities for making a

little more money are the main reasons for migrants to visit the city whenever they are hard pressed in their villages.

Table-28

Days of work and income

Sl. No	Place of Work	No. of Migrants who have found work	Mean No. of Days Worked in the Past Twelve Months
1.	Bangalore City		191.3
2.	Home Village		38.1
3.	Other Places		148.0
4.	All places	503	233.9

Temporary migrant's response when they were asked to compare their income in the city with that in their village.

Sl. No.	Comparison of Migrant's Income in the City with their Income in the Village	Number of Migrants	Percentage
1.	Same	13	2.6
2.	Better	307	61.0
3.	Far better	183	36.4
	Total	503	100.0

They are conditioned by their experience of joblessness in village and greater income opportunities in the city and some improvement in the standard of living of their families after they came to city.





It is imperative from the study, that demographic phenomenon of migration has become a way of life for the labour force. Honoring of social security and welfare benefits through the beneficial legislations will only be purposive, if the benefits are provided by understanding the implications migration in the real sense of the term.

Despite the intervention of the Supreme Court by issuing directions to Government for effective implementation of the Labour Laws, it is apparent that migrant labour in particular are being exploited by the contractors engaged in the construction industry by taking into the advantage the lacuna of the labour legislations. To substantiate, National Commission on Rural Labour in its report has spelt out detailed observations about the working of the ISMW Act.

With the afflux of time, the living conditions of migrant construction workers is becoming deplorable and their struggle for earning livelihood in the midst of hard working conditions by distancing themselves from the minimal comforts as members of the society.

It is understood that the pull factors prevalent in the construction industry galvanizes the labour force and migration of construction labour has been emerging itself as one of the major issues which demands immediate attention of the policy makers of the country. It is in this perspective that the researcher has attempted to compare few provisions of ISMW Act with the Construction Workers Act,1996 and to bring about few solutions so that the services of migrant construction work force is recognized besides grant of welfare benefits as enunciated under Construction Workers Act,1996

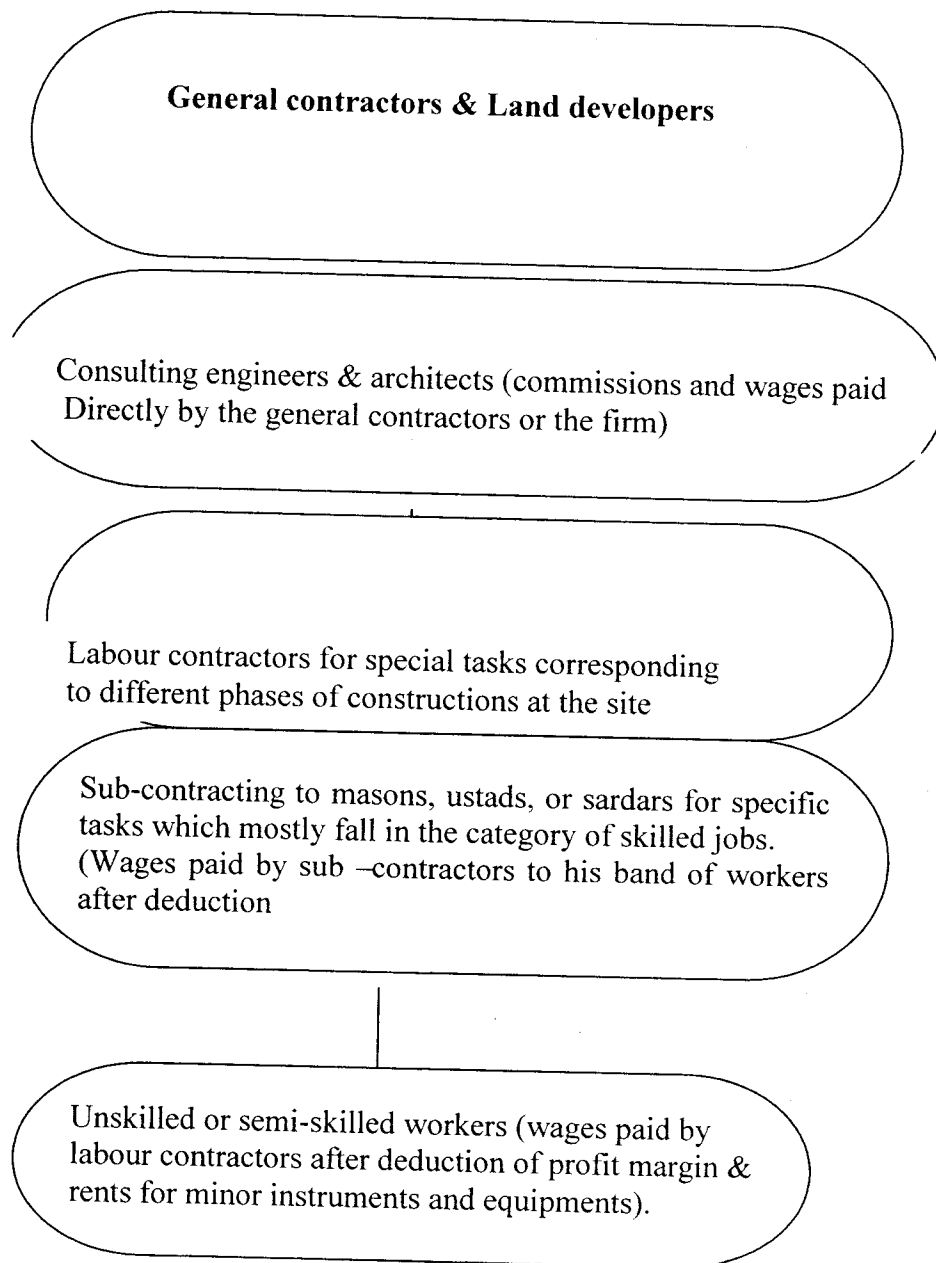
### **(III) METHODS OF RECRUITMENT IN THE CONSTRUCTION SECTOR**

The nature of building construction activity itself being a manifestation of different kinds of tasks at different phases makes contractual relationships more legitimate and profitable. This makes the enterprise a highly fragmented system.

In the fragmented system, however, the main agent that assumes importance is the general building contractor, who organizes the execution of various functions by bringing, albeit on order basis, together the required specialized functionaries to produce the final package. The building contractor, however, tends to organize his operation on a relatively smaller scale using relatively less capital and more labour. Labour-intensive small scale technology thus characterizes the production process. It is the labour contractors on whom the general contractors depend for the supply of labour, for specific tasks for periods estimated on the basis of the likely quantum of particular jobs. The wages for such tasks are also paid to the workers by labour contractors who keep their profit margins, termed often as commissions. Since much of the technology used in this sector is not capital-intensive, except for such items as cement and concrete-mixer, often the labour contractors provide the workers with minor equipment, charging rents for hiring them out. Hence a portion of the capital cost actually gets covered within the labour cost itself.

The following diagram shows a broad structure of labour placement and its usage in the building industry in the country. The Structure of Building Industry in the Urban Centres and the Countryside in India

### The structure of Building Industry



As evident from the figure, the labour contractor plays a key role in procuring the necessary labour input for the completion of different phases of work at the construction site. Since the nature of the industry is such that its requirements fluctuate in accordance with the demand, labour requirements too fluctuate correspondingly. This means a non-continuous relationship between the principal employer and the contractors and, therefore, the contractors and the labourers. In such a situation the institution of labour contracting acts as a special category that regulates the work. Essentially thus, in terms of wage and labour relations, the job of the construction worker remains placed within the informal sector of the economy. Such an adhoc relationship that gets perpetuated owes its continuance to the 'invisibility' of the principal employer, which consequently makes statutory provisions that try to ensure the welfare of these labourers difficult.

#### Varying Nature of Labour Contracting

As an essential part of the entire system, labour contracting varies in its nature as well as operation. "The most common method is one wherein the building contractor himself provides the materials and most of the employment required for some parts of the task and pays the subcontractor for carrying out the work. In the labour only subcontracting, the sub-contractor only provides hand tools and labourer to complete the specified task in construction work, say the excavation, bricklaying, etc". The labour contractor raises a definite sum of money based on the quantum of piece-rate work where his margin depends on the number of workers he actually employs and the actual amount of

wage that he pays to them. Given the instability of demand and the nature of the industry, a labour contractor can generally hire or lay-off labourers almost at his will although there are limits put by the aggregate supply of and demand for construction skill in the specified region at least in the short run. Therefore, exploitation is quite likely in both the systems though its degree may vary. The rate of commission indeed is determined by the market forces of demand and supply of specific skill and is found to vary from 10 per cent to 20 per cent of the wage rates by different occupation.

**As high as 90 to 96 per cent of the workers in the building industry enter the labour market in this sector through labour contractors.** Workers with different types of skills, as well as the ones who are unskilled, are hired on a time basis that varies with the specified nature of jobs to be completed. Securities of employment and since no records are maintained at the worksite, the worker is never granted any legal standing. The situation is even worse, when workers assemble at one place every morning and the jamadar (labour contractor) pick them up for a daily wage. A day's wage of the worker is completely dependent upon the availability of work and the mercy of the armada. This is a very common phenomenon in cities like Delhi, Bombay, etc., where large groups of workers come from rural areas in search of construction job. Absence of permanent labour and mobile nature of the industry create problems for the worker to search for employment on his own. As a consequence, the workers have no other way, but to fall prey into the hands of the sub-contractors.

The rate of wages paid to the different types of construction workers and consequently their earnings from this sector depend on a multitude of factors that include, (i) the instability of demand and fluctuation in the market; (ii) segmented groups of different labour types; (iii) invisibility of principal employer that consequently determines the lack of employer-employee relations; (iv) unregulated nature of the contractual relations; (v) the 'control' and dominance of labour contractors in the supply of labour; (vi) vulnerability of the worker caused by his economic conditions; and (vii) seasonal availability of employment and workers mobility between sectors or areas, etc. Within such a context the labour contractor raises money from the principal employer and disburses wages on a day-to-day work or a piece-rate work basis. Some among the skilled groups are also paid on a monthly or fortnightly basis.

Type of Work. The participation of unskilled and skilled labour force in the construction work has been proportionate and it is explicit that construction activity involves work force from different vocations, this aspect gives ample opportunity to the work force for entering into the construction sector.<sup>130</sup>

**Table -29**

**Different vocations of construction industry**

Worker types/groups total for	Per cent of Work	Worker types/ groups total	Per cent of workforce
Unskilled Workers		Skilled Workers	
Weight lifter	13.3	Sand blast operator	14.9
Dust lifter	8.9	Carpenter	9.7
Digging Worker	6.3	Plastering operator	4.0
Watchman	3.1	Mason	3.3
Waterman	2.0	Tiles fitter	3.1
Sub Total	33.6	Painter	3.1
		Plumber	2.6
		Cement finisher	2.6
Centering Worker	6.5	Glazier	1.7
Steel bender	4.9	Electrician	1.5
Concrete mixer	3.3	Blacksmith	0.9
Bricks layer	1.1	Pipe fitter	0.7
Glass fitter	0.7	Machine operator	0.7
Scaffolder	0.5	Whitewasher	0.6
Sub Total	17.0	Sub Total	49.4
Total:	50.6		

The most important procedure is recruiting workers on squares/ junctions of Cities/Towns where the latter have come specifically in order to find work. In other words, these squares function as veritable labour markets. The first workers arrive just after 7.00 a.m, and their number peaks between 8.00 and 9.00 a.m. By this time one-third of the workers have already left, mostly because they have been employed and have to travel some distance in order to reach the building site they have been assigned to. Almost half of the workers have left the square by

9.30 or 10.00 a.m., either with or without employment for the day, while one-fifth will hang on another hour or more, mostly in vain. About 60 per cent of the workers are unskilled and 40 per cent are skilled. Women make up the single largest category of workers on each square followed by the masons, and lastly the male helpers. In sum, about one-third of the workers are skilled, whether they are regular or casual labourers. In the case of the regular male worker this is mainly through his father. The father is of much less importance in this respect for the casual workers. The second most important way of recruitment concerns recommendation by a neighbour or a friend. A substantial minority of each type of workers find employment through the 'direct approach' to the employer. In conclusion, informal networks of contacts dominate the method of entry into the construction sector, and these contracts are in large part neighbourhood-based. In other words, entry is restricted. Women and casual workers have fewer relatives, who can make the introduction, and they are more often dependent on neighbours or squares. The status of a regular worker has the main advantage that one does not have to search for work; this is done by the employer. Thus the large majority of the regular labourers did not have to do much to find their present work site except reporting there on time; an employer may want his labourers together at his house or at his regular gathering place. The most frequently used method is *recruiting them at the squares*, especially in the case of the maistris. These are the genuine casual labourers; never sure of work for the day when arriving at the square, and when they are recruited, it is by ever changing employers. This

contrasts with other casual workers who are likely to be employed off and on by the same entrepreneur, and therefore form a third, intermediate group of workers, often called badlis. These badlis are recruited in more personalized ways. Firstly, a majority of the hutmakers never leave their living area to find casual workers. The method of recruitment is informal and most of the casual workers are drawn into construction sector. The magnitude of the work force under different heads needs a reference.

A second method concerns recruitment through the regular labourers of the entrepreneurs, especially maistris and government contractors; the badlis employed in this way are often neighbours of the regular workers. Thirdly, some entrepreneurs always visit certain suburbs, or villages just outside the town, when they are in need of additional workers; each of these entrepreneurs has established a connection with a different suburb or village, initially probably by chance. Thus, casual labourers have a much less direct personal relationship with entrepreneurs, compared to regular labourers. The squares have a far more important role for the recruitment of casual than of regular labourers. This is in part compensated for by the fact that on the squares entrepreneurs select first the labourers they already know, and only when those are not available do they employ labourers entirely unknown to them. The second most important sideline is coolie work in agriculture. Contrary to expectation, these casual workers are not generally agricultural workers seeking to overcome slack periods in the agricultural cycle; for the large majority the casual construction work is their major profession. <sup>131</sup>



**Table-30 Types of Work force**

Per 1000 Distribution of Workers (UPSS) by their Category of Employment during 1983 to 2004-2005 <sup>132</sup>

Year	Rural male			Rural female		
	Self Employed	Regular wage/ salaried labour	Casual labour	Self employed	Regular wage/ salaried labour	Casual labour
2004-2005	581	90	329	637	37	326
1999-00	550	88	362	573	31	396
1993-94	577	85	338	586	27	387
1987-88	586	100	314	608	37	355
1983	605	103	292	619	28	353
	Urban male			Urban female		
2004-2005	448	406	146	477	356	167
1999-00	415	417	168	453	333	214
1993-94	417	420	163	458	284	258
1987-88	417	437	146	471	275	254
1983	409	437	154	458	258	284

The existence of an abundance of casual labourers willing to work enables the entrepreneurs to employ only a limited number of regular labourers in the first place. This suggests there is a *reserve army of (casual) labourers*. The distinction is that between women and men: although working together on the same building site, women are never allowed to do the man's job. Age is another determinant; the majority of the casual workers have passed the age at which one can enter regular employment as a male helper, which gives access to the desired status of regular mason. So, the male casual workers form the third fragment. The recruitment of regular workers is largely informed by personal relationships. Relatives (especially the father), neighbours and friends

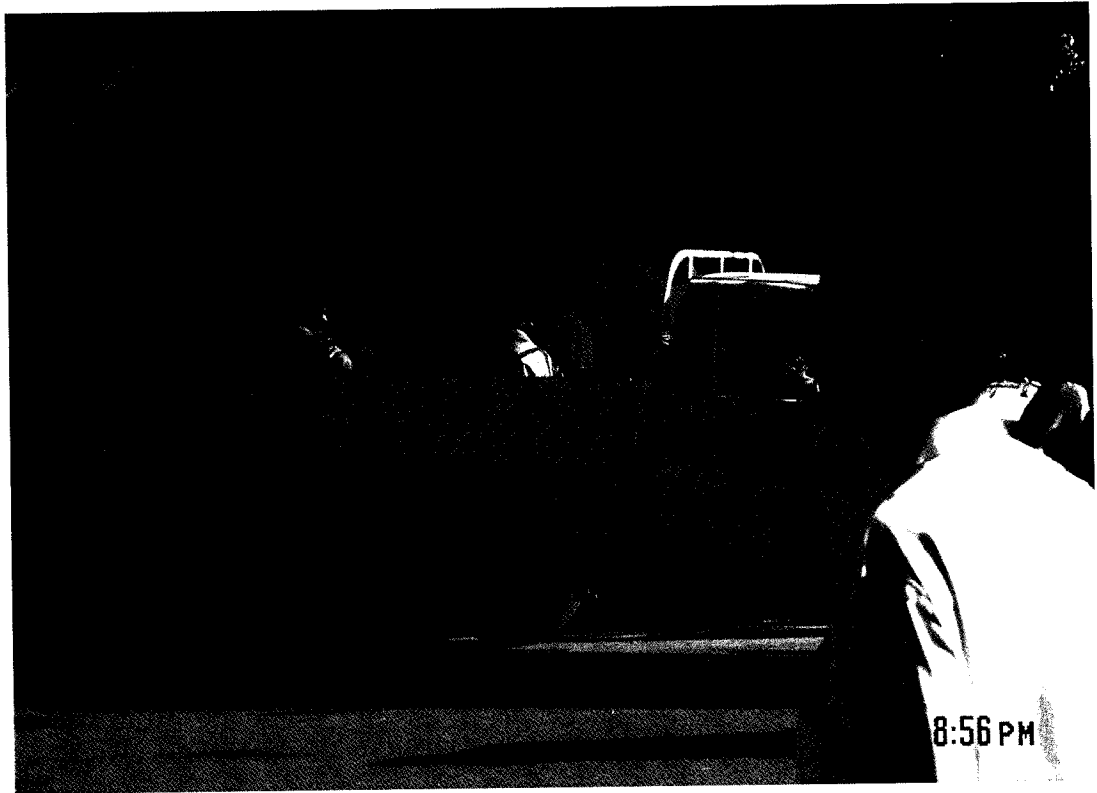
are the major vehicles that provide access to a job in construction. Only very few regular workers were recruited on a square and those who did are all women workers; furthermore, only a small minority of the entrepreneurs recruited most of their regular workers initially on squares. Thus, the conclusion is justified that the casual workers operate in a different fragment from the regular workers. In their turn, the casual workers can be divided into two separate fragments: the badlis, who work off and on for one and the same employer, while the square-workers change employers almost every time. So called 'formal sector' workers (recruited through formal channels and employed permanently) hardly exist in the construction sector.

#### Characterization of the Different Categories of Workers

##### Stability and Security of Employment

Some of the workers, mainly regular masons, are on the brink of an important step in their career, i.e. towards independent entrepreneurship. Almost half of the (127) regular masons interviewed, have already had at least one independent order. For the clients it implies financial advantages in that the mason will do the work cheaper than an established mistri, precisely because the mason is eager to get the experience involved.

The direct employers of the regular labourers are mainly (independent) mistris (85 per cent), and over half of the others are 'dependent mistris', i.e. subcontractors working for government or private contractors. These regular labourers have a substantial degree of **employment stability**, in the sense that many of them have been working for their present



employer for several years. Quite surprisingly, considering the instability of demand in the building sector, just over 50 per cent have had such regular work for more than two years now. Considering the extremes; 14 per cent have worked less than half a year, and 14 per cent have worked longer than 5 years for their present employer. Masons work on average almost twice as long for the same entrepreneur as the male helpers. This reflects, on the one hand, the importance attached to a good mason by the employer, and on the other hand, the fact that achieving the status of mason is a major career move which is valued by the worker in question. **Although employment stability is higher than expected, employment security is very poor.** Payments of wages are usually made daily or at the most weekly. Working on a certain building site till the work is finished is usually the maximum degree of security labourers have. The workers interviewed on the building sites were employed there for an average period of 2.5 months, beyond which security comes to an end. When the work on a building site is completed, they have to wait and see whether and when the entrepreneur will assign them to another site. For the labourers, the result is temporary unemployment, which may extend up to several months in a year. On average this amounts to 2.2 months in the year preceding the interview for the regular workers, while it is, of course, much higher for the casual workers (3.7 months). The regular labourers worked on average 4.7 days. Since most of them expect to be employed for six days per week. The casual workers gathered on the squares got work far less often, i.e., 2.5 days per week, although the workers came to the square on an average of

6.1 days out of the previous seven; in other words, they came in vain on 60 per cent of the days. The second major reason is illness of the worker (23 per cent), followed by family duties (13 per cent), s/he does not feel like working (8 per cent), and 'there is no use in going because there will be no work anyway' (5 per cent). One can conclude that rain is seen as the major cause of loss of work, closely followed by no work at the site due to a variety of causes, such as: the worker in question is not needed on certain days (especially male helpers), concrete has to harden, it is necessary to wait until the centering workers have finished their tasks, a particular month is not auspicious for construction, or the family circumstances of the employer or owner prevent the execution of the work. When they go to the square they are not sure of being actually employed, while the regular workers are told the previous day whether they can work or not. In this connection, it is revealing that the large majority of the regular workers (82 per cent) take along a tiffin-box to the work site, just as most of the office employees do. The casual workers, however, rarely use the tiffin-box; in the event they are employed. In sum, although the regular workers, and in particular the masons, have been working for several years for the same employer, and thus have a certain degree of employment stability, they do not have much employment security. Usually they are only sure of getting work on the site where they are operating, which means for not more than a few months. Casual workers enjoy neither employment stability, nor any degree of security, and on the whole they are employed for only half as many days a week as the regular workers. Some workers are paid at

the end of each working day, while others receive their wages once a week, usually on Saturdays; quite often part of the wage has already been provided as an advance on Wednesdays. Daily payment implies that every day a labourer remains uncertain about whether or not he will have work on that day; in the case of weekly payment, there is more security of employment. The regular labourers are mostly paid weekly. In contrast, the casual workers almost always receive daily wages. Whether paid daily or weekly, the wages are always based on a daily rate. The average daily wage rates show the great gap between skilled and unskilled workers, and between male and females ones and this is similar for regular as well as for casual workers. The average wage rate of the male helpers is 1.5 times as large as that of the female workers, who in fact do tasks which are only slightly different. In its turn, the masons rate is on average 1.75 times as large as that of the male helpers. It needs a mention that in the so-called 'formal' sector: 'Rates are fixed for the job and not for the man. In the Informal sector it is often the man who is rated and not the job. In summary, labourers have no means to appropriate any part of the surplus. Their payment is based on daily rates, and they are paid either weekly (the regular workers), or daily (the casual ones). They do have some bargaining power, for example, the regular labourers can use the threat of absenteeism, and the casual ones may collectively demand a certain minimum wage rate. **The wage rates are in general fixed for the job, and not for the man.**

Fragmented labour market.

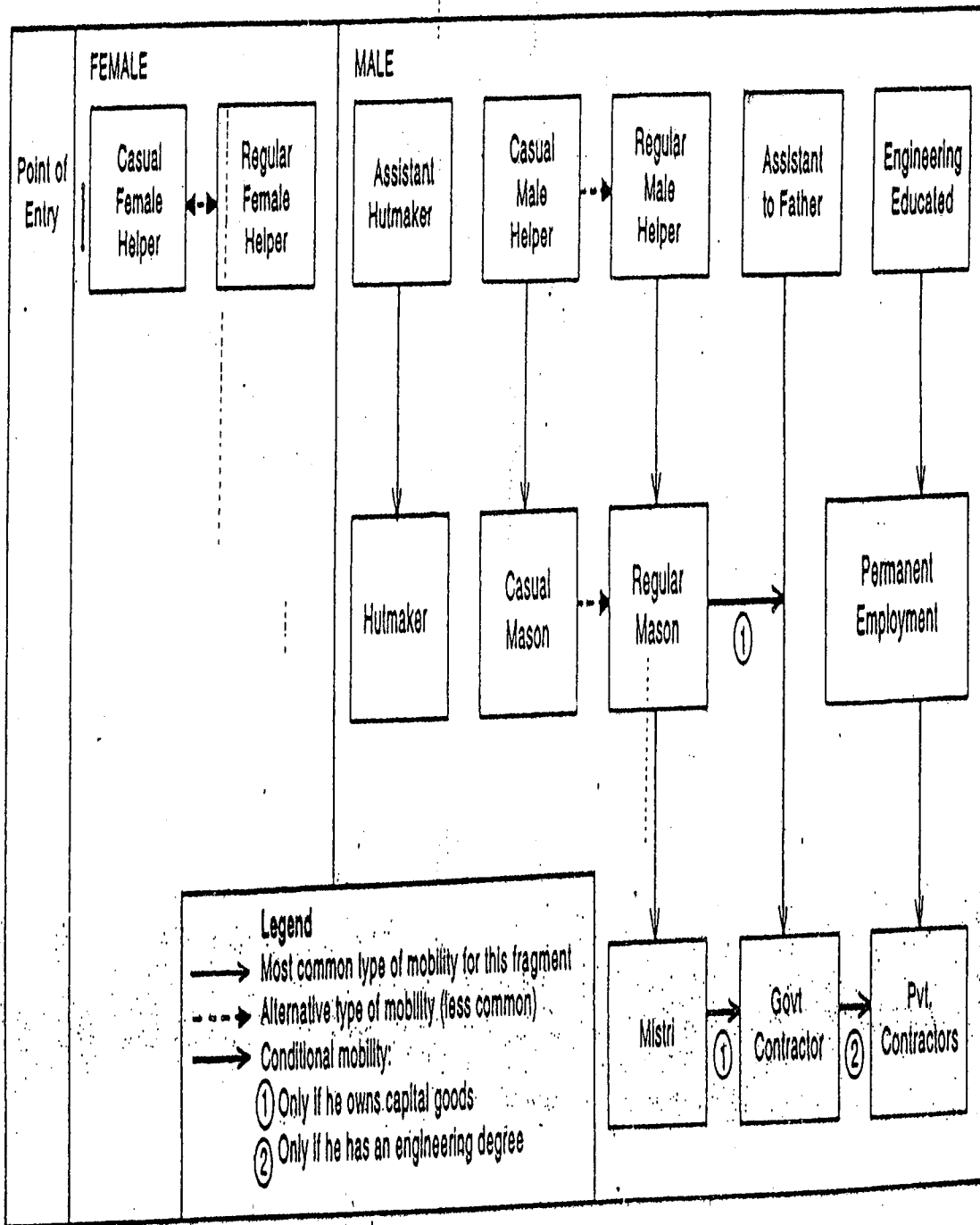
Construction workers are often treated as one homogeneous mass of people; all the poor, casual, unskilled migrants, moving freely from one kind of job to another within construction or outside it (especially agriculture). The first fragment comprises the regular male workers. In order to enter regular construction work one has to be very young, and one has to have contacts with the employer, either through family bonds, neighbourhood ties, or mutual acquaintances. In other words, recruitment procedures are determined by particularistic aspects of kinship, neighbourhood, religion and caste. These workers have a considerable degree of employment stability, in the sense that they may work a number of years for one and the same employer; nevertheless, they experience a low level of employment security, which usually does not stretch beyond the completion of one building site. This stability is the major difference between them and the second fragment, viz. the casual male workers who change employers almost daily. Furthermore, they are not able to enter the regular labour force in construction, due to a lack of the right contacts, or due to their age: the male helpers are already too old to be paid a boy's wages, while many masons have reached the age at which they have difficulty in doing heavy work. That casual workers form a separate labour market fragment, as well as a 'lower' social stratum. Female construction workers form the next fragment. Labour differentiation does not exist among them, so there is no way in which they are able to advance their status with increasing experience; there are almost no female masons. The most frequent type

of career is the one starting with a job as helper, to advance after several years to the status of skilled worker, to become finally an independent entrepreneur.

#### The Different Types of Occupational Mobility

The mobility between construction and other sectors is very limited. Not only did fewer than half of the regular labourers and entrepreneurs (except for the hutmakers) start their careers in other sectors, but having once entered construction only a few of them have later shifted to other sectors. The three types of subcontracting i.e. Foundation work, concrete pouring; centering leaders are very much separate fragments within the whole of construction, with their own networks of contacts.<sup>133</sup> The flow chart of growth of construction worker from helping hand to an individual contractor/entrepreneur is placed herein.

Figure 9.2: Occupational mobility within the building sector proper.



The study had interaction with 166 construction workers, few builders and labour contractors in the Guwahati City. There is wide scope to believe that at present the construction sector provides rather an easy entry to the job market at the urban sector along with the jobs in petty trade. The issue of rather easy entry as perceived by many is a matter of contest along with the issue whether it is push from strained rural areas or pulls from the booming construction sector or both as the reasons. The quantum of supply of the workforce and an assessment on the bargaining strength of the workers can provide the answer. Interaction with the workers revealed that the scope in this sector is generally known or explored through those fellow villagers or relatives who already have entered the construction job market. Generally it is seen that the kith and kin of construction workers pour to the job market taking the support from a particular worker or a section of workers who are mainly skilled or who has upgraded as a labour contractor. In an impoverished village such a support provides a breakthrough or hope towards assurance of livelihood. The entry is generally through helping hand to the skilled workers. On the other hand the labour contractors also get the workers from the rural areas by themselves or through some skilled workers whenever the construction activities demand more manual and unskilled work. In fact about 80 percent of the construction operations- excavations, earthmoving, moving of construction materials, mixing and pouring of concrete are done by unskilled workers. So, the low cost unskilled labourers are equally in demand. This may be

considered as the pull to the construction sector. But the huge reserve army from the rural areas always competes for job in the urban sector pulling down the wage rate. The labour contractors and the skilled workers compose the passage for securing a job for the unskilled entrants. When there is initiation of a construction project the builders generally approach labour contractors for the required quantity of labour. The labour contractors are in constant touch with the skilled workers who generally compose the passage for the unskilled ones. The unskilled workers in due course of time and by working with the skilled workers acquire the skill of a particular construction work. This generally takes about two to three years. The workers who have learned the skill in this process look for opportunity where they can apply their skill. In most cases these people find the opportunity to use their skill in construction activities in individual households. In our sample we found that some workers directly approach the employers for job. Most of the workers with whom we had interactions were from rural areas. The workers with whom we had interaction revealed some diverse reasons like meager agricultural land, lack of capital to start other work and lack of other opportunities along with the major reason of poor economic conditions. Some workers however preferred construction jobs as these jobs are more remunerative than other petty informal jobs. However, all these reasons together reflect the state of affairs of rural livelihood sector in the economy and justify the argument of push factor. There is also need to consider the bargaining strength of the workers, both skilled as

well the unskilled in the market as this might help us to ascertain the pull factor.

It is not that the entry and to retain job in the construction sector is easy. To remain in this field for long in a constrained situation require tremendous efforts. The private builders initiate the construction boom to a large extent. Even the government constructions are given to some reputed private construction companies. It is difficult for the individual workers to enter in such activities. Since construction work is composed of varieties of work ranging from masonry, to jobs of plumbers, carpenters, fabricators, electricians and many others therefore most of the jobs are subcontracted. Builders generally approach the labour contractors whom they know or have contact, supply the labour required in this process. The labour contractors form some core groups skilled job contractors or maistries and whenever required they are called upon for their specialized tasks. These job contractors or maistries bring their own helping hands. These labour contractors and job contractors form the main passage of entry of workers in the construction sector. Here kinship, ethnic and social loyalties play the major role. The labour contractor in most cases emerges from the workers. A manual labourer in due course acquires the skill and becomes a skilled worker. After accumulating some money and commanding loyalties from fellow workers and labourers, mostly from same ethnic clan some skilled workers emerge as labour contractors. Accumulation of some money in hand largely helps to become a labour contractor as the labour contractors are expected to pay the workers till their first payment which

is usually after a week. In the construction sector, a worker generally dreams to be a skilled worker and the dream of a skilled worker is to be a labour contractor. The workers in the construction sector acquire their skill in the process of working as a helping hand to the skilled workers. A small section in our sample (36 in total or 22 percent) reportedly had acquired skill before joining their job. For example they are generally who do the work of electrical and carpentry work. There is no formal training that leads to skill acquisition in this sector. It is generally through learning by doing or through informal training more than 85 per cent workers (142 in total in our sample of skilled workers) believes that it is difficult to enter the job market without skill. About two third of the workers reported that it requires more than one year to acquire the skill. About two third of the skilled workers (154 in total) reported that jobs are not easily available in general in the market. However, about three fourth of the workers in the sample (122 in total) believe that with skill it is possible to get into the jobs. Again 90 percent of the sample workers (150 in total) believed that they have the capacity to shift their job at will. About two third of the skilled workers in our sample reported that they look for new opportunities through agents and contractors. The rest of the workers reported that they themselves or through friends look for new opportunities for work. These figures reflect some constraints i.e. dependency on others in the job market of construction workers. There is competition for jobs as there is abundant labour supply in the market at present and the unskilled are nowhere placed. Still their work is in demand for being manual and the labour contractors and builders prefer

women in nature workers as almost same amount of service can be appropriated at much lower wages though officially there is no gender differences in wages. Labour based work is still in demand in the construction sector as some operations such as excavation, earthmoving, moving of construction materials, mixing and pouring of cements are done by labour based construction methods. This approach not only saves capital but also generates employment. Such unskilled workers though constitute about 80 percent of the labour force in the construction sector their bargaining power is minimal in this country as there is abundance of labour. The labour contractors are the main source of entry to the large and long duration construction jobs (more than six months or so) and even the skilled ones largely depend on the contractors for the access. Though for the skilled there is no dearth of jobs in the market and skill helps to play command in the market to a large extent but considering the long duration work at the large construction sites the workers often agree to a lower rate.

**Table -31 Acquisition of Skill**

Time required acquiring the required skill		Acquisition of the required skill	
Time period	No of workers	Mode of learning	No of workers
< 1 month	1	Learning by doing	134
2-3 months	2	Informal training	32
3-6 months	8	Formal training	0
6-9 months	20	Total sample	166
9-12 months	28		
More than 1 year	107		
Total sample	166		

The unskilled women workers reported that it takes less than one week to adjust to the job of construction work as a helping hand. They believe that in 6-7 months an unskilled man worker pick up the skills required in construction jobs. This is however not the case for women workers as no women worker would take up a job of maistry and so do not try to learn the skills of a maistry.

It was revealed from the interaction that most of workers are not employed throughout the month. Just about one fourth of the male skilled workers reported that they work for more than 25 days in the month. Majority of male workers reported that they work generally 20-25 days a month. It was reported that it is difficult to work for all seven days in a week as people get exhausted in such strenuous activities and there is no system of paid holidays. It was found that just 69 workers in our sample of skilled workers worked for more than 10 months during the last year. Altogether 60 workers reported that they worked for 8-10 months during the last year. Thirty six workers in sample reported that they worked for 6-8 months during the last year. So, it is revealed that the nature of work participation is somewhat seasonal in nature. During monsoon many builders generally do not want to start the construction work. Generally during the monsoon the builders avoid the ground works or the work of the exterior. It was found from the sample that altogether 78 skilled workers did not have job during the off season of the last year. Capture the lean season and spell of unemployment in the construction sector. This is the time most of the workers also proceed to

their villages to work in the agriculture field. Apart from somewhat seasonal nature of the construction jobs, majority of the workers are confident that their jobs are secured at the market and can get the job whenever they are in need. It is generally performing satisfactory work the workers defend their job

No. of days worked during the last month

	Male workers	Women workers
Below 10 days	-	16
10-15 days	4	19
15-20 days	40	4
20-25 days	80	1
More than 25 days	42	-
	166	40

No of days worked during the last year

Below 6 months days	1
6-8 months	36
8-10 months	60
More than 10 months	69
Total sample	166

Spell of unemployment

	Male workers	Women workers
Less than 1 month	69	-
1-2 months	50	-
2-3 months	31	1
3-4 months	5	10
4-6 months	1	27
More than 6 months	-	1
NA	-	1
Total sample	166	40

Seasonality of jobs is more specific to the region in the country. The region is under spell of monsoon for about five months. This not only

impedes the construction work but also livelihood of the workers. Workers who are totally dependent in this sector become desperate to earn a livelihood during this period. It was found that the majorities of unskilled women workers in our sample was employed for less than 15 days in the month. <sup>134</sup>

### **Informal Apprenticeship**

There are generally no operational standards as to what are the desirable qualifications of a construction worker prior to recruitment. The classification of construction laborers proposed by vander loop (1988), which can be summarized for ready reference as follows:

- 1) Stable wage workers: Blue-collar and white-collar labourers permanently employed by capitalist enterprises, generally big construction firms. They are protected by official legislations regarding wages, social security, etc. There are, for example, skilled or quasi-skilled technicians working with specialist firms like lift erection or sanitary fittings.
- 2) Short-term wage labourers: Contracted and paid per day, month or season, or for piece-work. There is no guarantee for continuity of job. The location as well as the time of the work is being determined by the employer. The difference with the casual wage labourers category is that 'short-term wage laborers' are often at least semi-skilled and that they have a greater degree of employment opportunities.
- 3) Casual wage labourers: They are employed outside the manufacturing or service establishments like construction

team could offer the requisite skills or could be paid less by 'contracting out' to them a piece of work.

The 'maistry' system results in the recruitment process, which is controlled by and assures contractors of the supply of the required number of labourers at the right time, at the least cost and without themselves having to carry the risks germane to the recruitment process.

The site engineer maintains a roster of labourers which specifies each job (or task), the number of labourers employed, the name of the 'maistry' in charge and such other details entered in easy language with simple references. He maintains a separate muster roll register for labour directly employed by the main contractor. Thus, two groups of muster rolls are generally maintained. The 'direct hire labour' (or directly-employed labour) are those workers who have been directly recruited, appear on the muster rolls of the contractors and to whom he distributes the wages. For those of the subcontracted labour though he maintains a muster droll does not distribute wages directly. At the end of the week, the site engineer computes the wages payable to each worker and consolidates them on the basis of the work done or labour supplied. For subcontracted labour, the amount payable is passed on the 'maistry' or sub-contractor who then distributes it to the labourers. Thus, labourers do not receive wages either from the contractor or site engineer in charge.

It is not that only unskilled labourers are constantly searching for work and are subject to fluctuations in labour demand; this is the case even for skilled personnel. The difficulty in selling labour and in

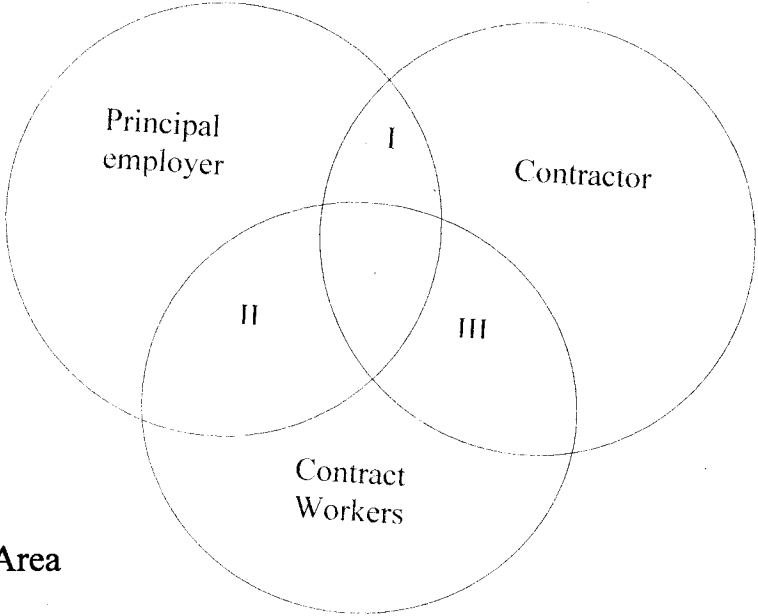
scraping together a daily income is illustrated in the following interview with Chinnappa, an unskilled worker: Usually I reach the Russell Market meeting point around 6.15 in the morning. Yesterday a shopkeeper called me to help a mason doing some repair work. I got Rs. 3.00. Today one pipe fitter has promised me some job and he might give me around Rs. 5.00. I am doing all kinds of odd jobs like carrying goods or head loads. We are poor. We cannot bargain wages. We have to accept whatever comes in our way. However, nowadays, pick-ups at City squares are bad and we are not sure of getting a job. On being hired by the 'maistry', the worker moves to the project site along with his family. Men, women and children all labour together to produce the maximum work so that they could gain higher earnings. They prefer to live at the project site under such conditions as are available, work willingly for long hours and forego rest days or holidays in order to maximize their earnings. The collusion between the labour contractor and the building contractor renders labour laws ineffective. Companies in the organized construction sector which need to comply with the provisions of various labour laws often suffer from a competitive disadvantage and try to lessen their production cost by avoiding payment of statutory contributions/ cess to the Government.<sup>135</sup>

The institution of contract labour though understood looking at the view points expressed in the preceding paras, it is appraised that there needs a reference of contract system by looking to various citation and its implications in the welfare of the labour force.

## CONTRACT LABOUR: MEANING AND SIGNIFICANCE

The 'contract labour' is applied to labour which is employed to perform some work through a contractor and hence no direct employment relationship exists between the ultimate employer for whom she does work and herself (MKI, 2001). The contract workers and the contractor have contractual relationship. The contractor and the client (principal employer) have commercial relationship. The contract workers provide their labour services to the principal employer. There exists a common zone, the 'tripartite zone' which becomes the basis for legal and non-legal course of actions for trade unions.

### Tripartite Nature of Contract Labour Market



I, II, III-  
Overlaps- Shaded Area  
-Tripartite Zone

Employers prefer to use contract labour for several reasons. The basic reason seems to be that markets in the era of heightened competition are said to be uncertain and product lifecycles are shortening (Team Lease, 2005). Employing permanent labour in such situations impose 'involuntary costs' on the employers. The staffing companies provide ready made and just-in-time labour when required and withdraw them when not needed. It affords flexibility. Thus, the 'allocation' function is taken care of. Secondly, it facilitates the 'matching' functions, i.e., the type of skills employers need is provided by contractors. It may be noted here that contract labour need not necessarily mean plain unskilled labour; as noted before, it may involve a range of skills. Thirdly, the employer can concentrate on 'core' activities and outsource non core or 'peripheral' activities and this labour market strategy could increase efficiency. Thirdly, the 'monitoring costs' for the principal employers are lowered significantly when they use contract labour. Monitoring imposes both money and real costs-real costs involve disciplinary action, litigation, indiscipline, union intervention, etc. Fourthly, the principal employer avoids fringe benefits like annual leave with wages, gratuity, bonus, etc. As is well known, non-wage costs and fringe benefits impose significant burden on the employers. Fifthly, it is often argued that contract labourers are more efficient than the regular workers. This is because of three factors. The staffing agencies monitor their work and will renew their contracts only if they are efficient. They work in diverse firms and contexts they acquire greater experience and learning effect is stronger in their case. Staffing agencies also in select cases

impart skills (Team lease, 2005). The penalty for the contractor is high if work is performed shoddily and delayed as the principal employer will shift to another contractor in such cases (Varghese, 2004).

Monitoring costs for the principal employers are lowered significantly when they use contract labour. Fourthly, the principal employer avoids fringe benefits like annual leave with wages, gratuity, bonus, etc. Fifthly, it is often argued that contract labourers are more efficient than the regular workers. This is because of three factors. The staffing agencies monitor their work and will renew their contracts only if they are efficient. They work in diverse firms and contexts they acquire greater experience and learning effect is stronger in their case. Staffing agencies also in select cases impart skills. The penalty for the contractor is high if work is performed shoddily and delayed as the principal employer will shift to another contractor in such cases. <sup>136</sup>

**Contract labour** has been and continues to be a significant and growing form of employment. It is prevalent in all industries, in agriculture and allied operations and in the service sector. It generally refers to workers engaged through an intermediary and is based on a triangular relationship between the user enterprises, the contractor including the sub-contractor and the workers. These workers are millions the number and generally belong to the unorganized sector. They have very little bargaining power, have little or no social security and are often engaged in hazardous occupations endangering their health and safety. They are often denied minimum wages and have little or no security of employment. On the other hand, reasons like uncertainty of

work, closer supervision by the employer or higher output by the workers, cost effectiveness, flexibility in manpower development, concentration in core competencies etc. justify the system of contract labour.<sup>137</sup>

***In Standard Vacuum Refinery v. Their Workmen***<sup>138</sup> Supreme Court has observed that contract labour should not be employed where

- 1) The work is perennial and must go on from day to day;
- 2) The work is incidental to and necessary for the work of the factory;
- 3) The work is sufficient to employ considerable number of whole time workmen; and
- 4) The work is being done in most concerns through regular workmen.

The judgment in this case laid the foundation stone of the legislation on contract labour, which came sometime later. The concern for providing legislative protection to this category of workers, whose conditions were found to be abysmal, resulted in the final enactment of the Contract Labour(Regulation and Abolition) Act, 1970 (CLRA, Act, 1970).

The CLRA Act recognizes that the principal liability for the health and welfare of workers and responsibility to pay them their wages lies with the contractor who is their direct employer. Keeping this proposition in mind, the liability of a principal employer under CLRA Act will be broadly discussed under two categories: (1) Liability of

absorption of 'contract labour' as regular employees of the principal employer and (2) Liability for health and welfare of contract labour while in service in the principal employer's establishment.

### **Applicability of the Act and certain definitions explained**

The long title of the Act demarcates the two-fold purpose of this legislation, which is to (1) regulate the employment of contract labour in certain establishments and (2) to provide for its abolition in certain circumstances. The CLRA Act, 1970 applies to every establishment/contractor in which 20 or more workmen are employed or were employed on any day preceding 12 months as contract labour and to every contractor who employs or who employed on any day of the preceding 12 months twenty or more workmen. It does not apply to establishments where the work performed is of intermittent or seasonal nature. The Act applies to establishments of the Government and local authorities as well.

A 'Workman' is defined under the CLRA Act as any person employed in or in connection with work of any establishment to do any skilled, semi-skilled, or unskilled manual, supervisory, technical or clerical work for hire or reward whether terms of employment be expressed or implied. A workman is deemed to be employed as 'contract labour' when he is hired in or in connection with certain work of the establishment by or through a contractor which may be with or without the knowledge of the principal employer.

A contractor has been defined under the Act as one who in relation to a particular establishment undertakes to produce a given result for the

establishment through contract labour or who supplies contract labour for any work of the establishment.

The definition of a 'principal employer' too is found in the Act and is one who (a) in relation to any office or department of the Government or a local authority, the head of that office or department (b) In a factory the owner or occupier of the factory (c) In a mine, the owner or agent of the mine (d) In any other establishment, any person responsible for the supervision and control of the establishment.

The definition of workman employed as contract labour is wide in scope, which is gathered from the fact that he may be hired by or through a contractor for work in an establishment with or without the knowledge of the principal employer. This section aims to ensure that the principal employer be liable for the welfare of the 'contract labourers' while they are working in his establishment, and precludes him from pleading that he had no knowledge of the worker being hired and working in the establishment.

#### **Nature of a principal Employer's Liability under CLRA, 1970**

The argument for liability of absorption of 'contract labour' as regular workforce arises mainly on two grounds. Firstly, the Act provides that every **principal employer** to whom this Act applies is to make an application for **registering** his establishment. This section is of a mandatory nature and not merely directive given the word shall which has been used to impose this responsibility on the principal employer. Furthermore, the Act provides for the **licensing of contractors** stating that " no contractor to whom this Act applies shall undertake or execute

any work through contract labour except under and in accordance with a license issued in that behalf by the licensing officer “Now, the issue that arises here is this, is the principal employer under an obligation if to absorb ‘contract labour’ as regular workforce if he does not get his establishment registered under section 7<sup>139</sup> or if the contractor that he has employed is not licensed under the mandatory provisions of section 12<sup>140</sup>. The second argument that is raised for the absorption of contract labour is when the ‘appropriate Government’ has prohibited contract labour in an establishment where it was previously employed. The Act provides that the ‘appropriate Government’ can prohibit by notification in the Official Gazette employment of contract labour in any process, operation or other work in any establishment, while issuing such a notification the Act lays down certain factors on which the Government must base its decisions. The issue that arises here is this, the principal employer under any obligation to absorb ‘contract labour’ in that industry by way of notification under Section 10.<sup>141</sup>

The other liability that accrues on the principal employer is for welfare and health of ‘contract labour’. The Act provides that the contractor in certain cases is to maintain canteens, rest rooms, first-aid facilities and other facilities. The principal responsibility to maintain these amenities as per the Act lies on the contractor, but if these amenities are not provided by the contractor within the time prescribed the onus is on the principal employer to do the same. However, the Act provides that all expenses incurred by the principal employer in providing these amenities can be recovered by the principal employer

from the contractor; however the principal employer is under an obligation to provide an authorized representative of the establishment to be present at the time when wages are being disbursed to the 'contract labour' by the contractor whose duty is to certify the amounts paid as wages. The Act further imposes another obligation on the principal employer with respect to payment of wages. The Act provides that in cases where the contractor fails to make payment of wages or makes short payment then the principal employer shall be liable to make payment of wages in full or the paid balance as the case may be to the contract labour and recover the amount so paid from the contractor ***Gammon India Ltd. v. Union of India.***<sup>142</sup>

Liability of absorption of Contract Labour as regular employees under the Principal Employer (P.E)

Liability of P.E. when in default of section 7 or contractor in default of section 12.

The issue that is raised here is this, if the P.E. has not registered his establishment under section 7 and he continues to employ contract labour or he employs a contractor who does not hold a valid license is the P.E. Liable to employ the contract labour as regular employees. This issue came up before the Supreme Court in ***Dena Nath v. National Fertilizers Ltd***<sup>143</sup>. The appeals in the present case raised a question of the scope and effect of failure of compliance with section 7 and/or section 12 of the CLRA Act 1970. The court clearly said "Neither the Act nor the Rules framed by the Central Government or by any appropriate Government provide that upon abolition of contract labour;

the said labour would be directly absorbed by the principal employer". The Supreme Court did not agree with the view put forward by the High Court of *Gujarat in FCI Worker's Union v FCI*<sup>144</sup> wherein the High Court stated that where the two conditions enumerated under Section 7 and Section 12 of the Act are not complied with and the workmen are employed by the contractor, the workmen can claim to be direct employees of the principal employer.

The Supreme court held that the only consequences provided in the Act where either the principal employer or the labour contractor violates the provision of Section 7 and 12 respectively is the penal provisions which are under sections 23 and 25 of the Act<sup>145</sup>. The Court clearly stated that it was of the view that in proceedings under Article 226 of the Constitution merely because contractor or the employer had violated any provision of the Act or the rules, the Court could not issue any mandamus for deeming the contract labour as having become the employees of the principal employer.

Liability of P.E. to regularize contract labour when issued notification under Section 10.

The issue that came up before the Supreme Court on several instances was that whether the principal employer is under an obligation to absorb contract labour once the appropriate Government has issued notification under Section 10 to prohibit employment of 'contract labour' in that industry, has been one of utmost importance in labour law jurisprudence.

The two important case laws case laws in this context are interesting to note because the judgments stand poles apart.

*Air India Statutory Corporation v. United Labour Union.*<sup>146</sup> In this case the appellants had engaged as contract labour, the respondent's union's members, for sweeping, cleaning, dusting and watching of the buildings owned and occupied by the appellant. The Central Government exercising the power under section 10 of the Act, on the basis of the recommendation and in consultation with the Central Advisory Board constituted under section 10(1) of the Act issued a notification for watching of the buildings owned or occupied by the establishments in respect of which the appropriate Government under the said Act is the Central Government. Since the appellant did not abolish the contract labour system and failed to enforce the notification the respondents came to file writ petitions for direction to the appellant to enforce forthwith the aforesaid notification abolishing the contract labour system in the aforesaid services and to direct the appellant to absorb all the employees doing cleaning, sweeping, dusting, washing and watching of the buildings owned or occupied by the appellant-establishment, with effect from the respective dates of their joining as contract labour in appellant's establishment, with all consequences benefits.

The Court stated that the Act did not intent to denude them of their source of livelihood and means of development, throwing them out from employment. The Court expressed that the CLRA Act is socio-economic welfare legislation. "Right to socio-economic justice and empowerment are constitutional rights. Right to means of livelihood is also a constitutional right. Right to facilities and opportunities are only

part means of to right to development". The Court stated that without employment or appointment, the workmen would be denuded of their means of livelihood and resultant life, leaving them in the lurch since prior to abolition they had work and thereby livelihood.

The Court emphasized that the CLEA Act exists to prevent exploitation of labour. It stated that the conditions of labour are not left at the whim and fancy of the principal employer. The Court stated that on abolition of the contract labour, the principal employer is left with no right but duty to enforce the notification, absorb the workmen working in the establishment on contract basis transposing them as its regular employees with all consequential rights and duties attached to a post on which the workman working directly under the appellant was entitled or liable.

(II) *Steel Authority of India Ltd. v. National Union Waterfront Workers* <sup>147</sup> In this case before the Supreme Court one of the issues was the same as the last one i.e. whether the P.E. is under an obligation to absorb 'contract labour' once the appropriate Government abolishes employment of 'contract labour' in that industry vide a notification under section 10 of the Act.

Counsels for the P.E. contended that the responsibilities of the P.E. under the CLRA Act arise only in the event of failure of the contractor to fulfill his statutory obligations and in such an even he is bound to reimburse the P.E. It was further pleaded that whenever a contractor undertakes to produce a given result or to provide services to an

establishment/undertaking by engaging contract labour, the relationship of master and servant exists between the contractor and the contract labour and not between the P.E. and the contract labour. It was contended that if the Court were to accept the contention of the contract labour, the Court would be adding a sub-section to section 10 prescribing for automatic absorption on issuance of notification under sub-section (1) of section 10 which would be impermissible.

The counsels for the 'contract labour' contended that the action of the contractor who is the agent of the P.E. to engage contract labour, binds the P.E. and creates relationship of master and servant between them. The counsels laid emphasis on the directive principles contained in Articles 39, 41, 42 and 43 and urged for interpreting the beneficial legislation like the CLRA Act to promote the intention of the legislature whose purpose is to discontinue the exploitation of the contract labour and to bring it on par with the regular workmen, therefore, it was implicit that on abolition of the contract labour system, the workmen concerned should be absorbed as regular employees of the P.E. Reliance was placed on the judgment given in the Air India case (supra).

The Court stated that where a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment, a question might arise whether the contractor is a mere camouflage. "If the answer is affirmative, the workman will be in fact an employee of the P.E., but if the answer is in the negative, the workman will be a contract labour". The Court looked into the provisions of the CLRA Act such as Sections

16-19, 20-21 <sup>148</sup> and came to the conclusion that these provisions clearly be speak treatment of contract labour as employees of the contractor and not the P.E. The Court relied on the Dena Nath (supra) judgment stating that the Court had held that neither the Act nor the Rules framed by the Central Government or by any appropriate Government provided that upon abolition of the contract labour, the labourers would be directly absorbed by the P.E. The Court clearly said that it is not for the HC or the SC to read in some unspecified remedy in section 10 or substitute for penal consequences specified in sections 23 and 25 a different sequel, be it absorption of contract labour in the establishment of principal employer of a lesser or a harsher punishment. The Court overruled the Air India case (supra) prospectively and held that neither section 10 of the CLRA Act nor any other provision in the Act whether expressly nor by necessary implication, provides for automatic absorption of contract labour or issuing a notification by the appropriate Government under sub-section (1) of section 10.

These decisions make explicit that though the Appropriate Government issues notification for abolition of contract labour in particular vocation, any violation of these directions by the principal employer only results in imposition of penalty and as such the principal employer or the contractor is less interested in absorbing the work force with the establishment

Liability of Principal Employer for Health and Welfare of Contract Labour while in Service

The P.E. in certain cases is directly made liable for the welfare of the contract labour as well as to pay wages to the contract labour so employed. As stated before, the contractor is liable under sections 16-19 is to provide certain amenities to the contract labour who he employs to work in the user enterprise. However, if the contractor so defaults, in providing for these amenities under section 20 the P.E. is liable to provide the same, the cost of which he can later recover from the contractor.

The P.E. is given a further obligation under section 21 of the Act to have an authorized representative present when the contractor is disbursing wages to the contract labour. He is also supposed to make full payment of wages of the contractor so fails to do so or make good the balance if contractor does not pay in full to the contract labour. The P.E. can later recover the amount from the P.E. such a direction is given by section 21 (4) under which a case came before the Sc, which merits consideration.

***In Hindustan Steel Works Construction Ltd. V. Commissioner of Labour*** <sup>149</sup> the question arose for determination is whether the P.E. is liable to pay to the contract workers any amount which constitutes the difference between the wages payable to the contract labour by the contractor and the wages paid by the P.E. to its own employees doing similar work.

This case arose under Rule 25 of the Andhra Pradesh Contract Labour (Regulation and Abolition) Rules, 1971 of the AP CLRA Act, 1970. A rule 25 of AP CLRA Rules is similar to the CLRA Central

Rules. This rule imposes on the contractor certain conditions subject to which a license is granted to him. One such condition is to the effect that the contractor shall not pay to the contract labour in his employment wages, which are lower than the wages paid by the P.E. to his own workers, which do the same or similar kind of work. This is a condition of the contractor's license. In this case the Contractor was paying to his workers who were doing the same work as the P.E.'s employees, lower wages. The Labour Court held that the contractor should pay the pro rata wages\* to his employees as the P.E. does to his employees doing the similar kind of work. The contractor approached the HC which directed that the P.E. should pay to the contract labour the difference between the wages paid by the contractor and the wages which were paid by the P.E. to its own employees, and that in case the contractor failed to pay the amounts to the contractor labour concerned, the P.E. should pay the same to the contract labour employed by it and may thereafter recover the amount so paid from the contractor.

The SC went into the definition of wages as given by Section 2 (1) (h) of the Act which is the same as Section 2 (VI) of the Payment of Wages Act, 1936. The Court came to the conclusion that the term 'wages' for the purpose of Section 21 of the CLRA Act means contractual wages, which are, payable under the terms of the employment as between the contractor who is the employer and the contract labour that are his employees. If the contractor does not pay these wages to his workmen engaged by him as contract labourers, then under sub-section (4) of Section 21 the principal employer becomes

liable to make good the difference and recover this amount which the P.E. has paid to the workmen of the contractor, from the contractor.

The court stated that there is no provision under these rules by which the P.E. is made liable for payment in the event of non-compliance of the conditions imposed by Rule 2(v) (a). The Court went on to say that if the contractor commits a breach of the conditions he alone will face the consequences. The right of the workers to recover any additional wages, which may be so determined, would be against the contractor. The Court concluded that the definition of wages under section 2 of CLRA Act read with definition of wages under payment of Wages Act, 1936 does not cover any additional amount and payable under Rule 25(v) (a) if the P.E. has its own workers doing similar work. Hence, the P.E. in this case was exempted from paying any additional amount to the contract labour.

The question that now arises is whether the CLRA Act has been able to achieve even in part what it was enacted for that is to abolish and if in cases where it was not possible to do so, regulate contract labour. The very fact that employment of contract labour is on the rise and the plight of contract labour is worse than ever, shows that the CLRA has been far from effective.

The CLRA Act foreclosed this avenue and instead provided for the setting up of advisory committees at the Central and State levels to investigate into complaints of unjustified employment of contract labour and to make recommendations to the concerned Government as to whether the system complained against was in fact justified and needed

to be abolished. The Act itself is silent on this issue of absorption after abolition. The SC in the Air India judgment gave a broad reading to the Act saying that since it is a welfare legislation such labour to be regularized when abolished, but later the SC in the SAIL case gave a contradictory judgment and overruled the previous case, stating that the Act did not specify the workers are to be abolished and the regularizing them would be like adding a new Section to the Act. Thus the chance of absorption that contract labour had, before the Act came into force has been completely precluded by the judicial interpretation of the CLRA.

The Supreme Court in Dena Nath held that the only consequence of not obtaining a license under Section 12 of CLRA Act is paying a penalty under Section 23. Now, under section 12(2), the license is to include norms about service conditions including hours of work, wages etc. to be applicable to the contract labour. Where no license is obtained, there would be no specified conditions and the contractor should be free to set his own conditions on wages, hours of work, etc. The SC may have envisaged that in due course the contractor would be prosecuted but the punishment provided under Section 23 of the Act is maximum imprisonment of three months and a thousand rupees fine or both and for a continuing offence a fine of Rs. 100 a day. The fine is so minimal that the contractor would find it economical not to obtain a license at all but to pay a fine of Rs. 1000 and pay Rs. 100 a day. Hence he would save on license fees and with no conditions stipulated for wages, hours of work, can benefit by increasing working hours and cutting wages.

The Supreme Court's judgment in SAIL has now clarified that there is no provision in the CLRA Act Rules that contract labour needs to be regularized after its abolition from that industry. This leaves, a free market employer to continue with contract labour despite Government notification and bravely face the penalty under Section 23, ensuring that imprisonment is avoided. Then as in the case of unlicensed contractor, he too will find it economical to continue with contract labour, by paying the initial fine of Rs. 1000 and then a continuing one of Rs. 100 a day. Thus it would seem that both the P.E. and the contractor should find it beneficial not to comply with the provisions of the law and fulfill its social purpose all the more so because prosecution is only through Government bureaucratic conduit which is invariably choked and it takes years before the case gets to the Courts.

With the afflux of time, it is apparent that the growth of contract labour is increasing and to protect its interest, the efforts of the trade union has witnessed a change and its implications needs a reference.

Technological developments, faster and different form of globalization, rise of demand for specialized products, enhanced competition, and the uncertainty about market growth are the major factors that prompt firms to adopt flexible labour practices. The basic feature of flexibility strategies is to take jobs outside the realm of legal and institutional regulation and to 'deviate' from standard practices-greater the deviation greater the flexibility. The globalizing conditions have enhanced the 'mobility' of capital and hence their bargaining power vis-à-vis workers have increased. Public sector enterprises are

disciplined by policies of fiscal prudence, state retrenchment, marketisation and the threat of privatization. Informalisation of employment is the key labour market outcome of these developments.

But it cannot be denied that workers and unions have been pushed on the defensive. The rise of new industries meant new class of employees with different 'endowments' and 'interests'. The new industries and new employees are amenable for unionization. Workers in informal sector and informal workers in formal economy are historically neglected segments of the working class

But this has been a time for introspection. The rise of new segments of workers and the hugeness of informal employment has posed considerable challenges to tradition unionism. Trade unions have been often accused of protecting the interest of the insiders, i.e., the permanent male workers are often at the expense of the vast majority of the unorganised workers. The revisionist position has been that trade unions have not sought to look after the welfare of 'informal type' workers in the formal sector itself. Trade unions in India have adopted five organizational strategies to reinvent themselves. Firstly, they stridently strive to protect the existing institutional base of the labour market and industrial relations system relating to the organized sector. Secondly, they are fighting in the policy arena laws for providing income security for the unorganized workers. Thirdly, there is move away from fragmentation to unification. Fourthly, they have been organizing the unorganized workers in two ways. They seek to embrace the informal type workers by agitating both in the policy sphere and at

the workplace. They have been principally demanding some form of regularization of employment of informal type workers like contract and casual workers. Employer need contract labour for flexibility and efficiency reasons. Workers need jobs and they get as contract workers. Trade unions had maintained a constituency in which contract labourers were often absent. The permanent workers shied away from contract workers. The judiciary and the state have been inconsistent in their approach. The contract workers as a result do not enjoy organizational, legal, institutional (collective bargaining) rights and these have left a 'right vacuum'. that it is essential for the actors to take a 'community of interests' perspective. This perspective considers equality, fairness, and encompassing ness as absolute moral values and override narrowly defined economic efficiency arguments. These values form the bedrock of 'decent work' and decent work contributes to efficiency also. It is a simple proposition that productivity of well-paid, fairly treated, well-nourished and reasonably secure workers working under conditions of dignity and decency will be higher. It further argues that the trade unions and contract workers need to use, apart from pursuing legal, political, market and social routes to achieve institutional power. It is this that matters most and may even redefine economic, political and legal contexts. Contract labourers are used as a threat to permanent workers and this divides the movement. However, the permanent workers are themselves under threat in the new economic environment and the insider power is diluted. This should reorient the attitude of permanent workers towards the contract workers. On the other hand, permanent

workers should understand that contract workers will not underbid them because it will lead to 'race to bottom' and also because there are 'social norms' that prevent them from doing so. In other words, contract workers are not a threat to regular workers.

As is well known, the judicial decisions under the labour laws also define the legal framework. If the contract is not genuine (sham contracts), then the contract workers can themselves raise an industrial dispute demanding regularization of their services and claiming benefits available for regular workers and the Industrial Tribunal can give the award on the dispute. Of course, the issue of genuineness of the contract will be adjudicated by the tribunal.

If the contract is genuine, the appropriate government and not an Industrial Tribunal can order after due consultations with the Board for abolition of contract labour. The regular workers and not the contract workers can raise industrial dispute in this case for abolition of contract labour as there exists no employer employee relationship between contract labourers and the principal employer. After the government has abolished contract labour, the Tribunal can consider the demand for regularization of employment of contract labourers.

The CITU has organized the contract workers in Rashtriya Chemical Fertilizers (RCF). The contract workers went on an indefinite relay hunger strike demanding allotment of provident fund code number to them, employment to dependents of the deceased contract workers, provision of regular work to gross cutting contract workers, continuity of services of contract workers with existing benefits and wages, and

periodical revision of service conditions. The significant demands were continuity of employment (with existing wages and benefits) and periodic revision in service conditions. The principal employer (the RCF management) agreed to continue the services of the contract workers with the successive contractors, of course subject to availability of work and satisfactory performance of the workers. The union agreed to withdraw all court cases if a long-term settlement is arrived at and the management has agreed to continue the dialogue on this matter. Again, the strategy of the union changed in the post-SAIL case context. They do not demand for abolition of contract labour but ask for continuity of service of contract workers irrespective of changes in the contractors hired. The grant of this demand by the RCF management meant an important victory for this class of workers.

They reflect the realities and contradictions in the labour market and industrial relations system, viz. divisions in the working class, the potential for concerted action, the utility of collective institutions, the mixed image of judiciary, the dilemmas of the government, the contradictions in labour policies of the government, the rigidities introduced by the labour laws preventing the freedom of purposeful action by trade unions, the pros and cons of various routes of actions for trade unions, and so on. The division between permanent and contract workers reflects the basic difference in Organisational power of them. Permanent workers areas organized and have better conditions of work and are a pampered lot. The contract workers are not so. There are layers in the working class and are not homogenous. The absence of

organization and collective bargaining rights and the disparities in the legal framework in case of contract workers diminish their status. The organization of contract workers whereas bridges this gap

The dominant demand in the past was abolition of contract labour as it was exploitative. In case abolition of contract labour was not possible concentrate on issues of regulations such as wages and provision of amenities. The trade unions took a number of cases abolitions were granted and many of these and other cases have been under litigation. It is not that trade unions were single mindedly pursuing the single-point agenda of abolition and automatic absorption of contract labour. They did concentrate on other issues relating to 'regulation'.

Although it is acknowledged that contract workers are eligible for provident fund and employees state insurance benefits, it is well known that the staffing agencies perpetrate 'double fraud' on the vulnerable contract workers by paying them low wages and also cheat them on their social security contributions as the Second National Commission on Labour (SNCL) has pointed out (SNCL, 2002). Deepti Gopinath has observed that "Due to frequent changes in contractors and multiple accounts, the workers face great difficulty in accessing their accounts. Either the provident fund has not been deducted, or the contractor has changed or the worker changes his job... There is also a question of arrears, which employers often don't pay. All this (sic) results in the worker being denied his rightful benefits" (Indian Express, December 2002). The contract labourer is assured of minimum wages; but there is no legal provision for annual increments. As a result, "A new worker

would receive as much as one who has been working for ten years” (Bennet D’Costa quoted in Times of India, 2003). Mahadevan of the AITUC bluntly states that maximum deficiency in enforcement in relating to minimum wage laws and he opines that “The existing enforcement machinery, by and large, is either inadequate or inefficient or corrupt or all together” . A few studies that have evaluated enforcement data relating to minimum wages have found that the enforcement machinery is inadequate and inspections and convictions rates are not satisfactory (see Giri and Rath, 1998 for Orissa; Shyam Sundar 2007b for Maharashtra). It is quite another matter that minimum wages are not frequently revised and even if they are done, the minimum wages in real terms decline over the years and is estimated to be below poverty wage level (ILO-ARTEP, 1997).The trade unions have been demanding implementation of ‘equal work, equal pay’ principle (which is a law under the CLRA). Union leaders ask frustrated as to which employers comply with this rule.

It is noticed that trade unions concentrated on abolition of contract labour and largely ignored the provisions for regulation of contract labour employment. Ignoring regulation meant the locus of struggle was not the workplace and hence the unions could not challenge the ‘employment relations’ within the collective bargaining framework at the work place. It affected the union and collective bargaining institutions. Secondly, as collective bargaining remained weak, wages could not be improved. The post-SAIL judgement completely derailed

the protest movement of the contract workers and threw them in confusion.

The three basic aspects of 'regulation' that could constitute "post-SAIL agenda" for contract workers, viz. (a) 8-hour day, (b) a fair statutory minimum wage, and (c) the principle of equal wage for equal work. The new agenda of the trade unions in Maharashtra consists of issues such as minimum wage, 'equal wage for equal work' and 'continuation of contract workers irrespective of change in contract workers'. They no longer demand abolition of contract labour system instead prevail on the demand of regulation of employment. If abolition of contract labour is not feasible then it would be desirable to put efforts for regulation of employment of the contract labour.

#### Towards a Community of Interest Approach

The basic argument of the approach is that fairness, equality, non-discrimination, encompassingness are values that are important by themselves and override the often narrowly defined economic arguments. The employers should ideally adopt a 'community of interests' approach and realize that contract labourers might perform tasks that are not core in the technical sense but their jobs are as much essential to the completion of tasks as the core jobs. The jobs on an ethical scale are weighed equally though on a technical scale disparities could be imparted. The firm is the result of multiple activities and all stake holders play an important role. The economic logic of rewards based on their marginal contributions often may not mean a living wage for workers, which is not only a constitutional assurance but also a moral

wage. The moral wage not only maximizes labour and thereby social welfare but also leads to social peace. The inequalities within the firm should not be radical enough to cause discontent. Firm is a microcosm of the society. If each firm strives to establish some measure of equity within it, then the society will approximate towards social equity. Values like equality and fairness are components of their corporate social responsibility and constitute good corporate governance. Wage differentials are required to act as price signals for efficient allocation of labour and 'social efficiency' involves reducing the inequities to the extent that a social welfare is maximized and social discontent is toned down.

There are companies in Mumbai like Reliance. Godrej, Larson & Tourbo which employ more contract labour than permanent workers and are doing well (Samants, 2004). But there are also companies like Crompton Greaves, Johnson & Johnson, German Remedies, Hercules Hoist, etc. which have not employed contract or casual labourers and they are performing equally well. The latter have better corporate governance than the former.

The trade unions have made progressive steps by embracing the vulnerable groups like contract workers into their fold and cleaned their 'historical blemish'. They have been knocking at the doors of the judiciary for legal relief and the government for 'systemic solutions'. These are conventional methods. While the trade unions need not give up these, they should adopt 'social' and 'market' routes. The trade unions need to strengthen and widen their social coalitions and forge a

social movement to press for equity both at the workplace and in the larger society. The institutional and social power is a weapon to be wielded by vulnerable workers. Trade unions also need to embrace the 'community of interest' approach. It is often the case that trade unions and regular workers seek to solely protect their interests in collective bargaining. The Organisational assumption is/was that contract and casual labourers do not belong to their community. Trade unions and regular workers working especially in a hostile environment succumb to this. This strikes at the roots of ethical and organisational basis of the labour movement. The 'community of interests approach' is an answer to such criticisms. The triumph of human will lies in building community of interest against such odds. <sup>150</sup>

Among different kinds of employment that have been created in various economies to circumvent labour laws, contract labour is becoming one of the prominent forms. If we assume that such a flexible form of employment is indeed necessary in a competitive world, then how do we extend social protection to this section of labour.

In a survey of contract labour in an industrially advanced state ie. Karnataka, it has been observed during our field visits that whatever protections have been provided by the law is not adhered to in practice.

**Problem of unregistered agencies:**

The survey also indicated that there are a large number of unregistered contract agencies in Karnataka. Possibly due to this reason the data from the department of labour on contract worker reveal that the number of contract agencies has been declining in Karnataka since 2001,

while the survey of contract agencies and principal employers show the opposite.

Table-32

**Contract labour in Karnataka**

Year	Total number of registered principal employers	Total number of licensed contractors	Number of contract worker covered by the Act
1998	2345	6846	310825
1999	2555	7700	301142
2000	2848	8315	315969
2001	2836	5345	252165
2002	3138	5403	253016

There are obvious advantages of being un-registered as it enables an agency to evade taxes, in addition to avoid paying P.F, E.S.I benefits etc. to a worker and thereby increase one's profit margin. More precisely, a registered contract agency usually needs to pay around 8 percent of total revenue as service tax, 4% as professional tax, 13.5 percent provident fund benefits to the workers and 4 percent Employees State Insurance (ESI) benefits. Therefore, when a registered company tries to compete with an unregistered one, the only possibility appears to be to exploit the labour as they are in excess supply.

Ingenious way of avoiding detection by a supervisor:

It is also revealed through our survey that some of the companies maintain more than one register; one for the scrutiny of the labour

inspector and the other contains the actual figures. The respective inspector then has to be ingenuous enough and to be ready to put the necessary effort to bring such corrupt practices to light.

Thus, there is no denying of the fact that there are sensible provisions in the Contract Labour Act, but the problem is proper implementation.

This survey based study reveals the futility of amending any act without ensuring proper implementation of the already existing provisions. It is observed that collusive agreements between various agents often result in the exploitation of contract labour. As the existing system does not provide any incentive to the supervisor to detect and prevent unlawful practices and hence leading in collusion and corrupt practices.

Many enterprises have revealed during our field survey that they are ready to enhance the wage levels of contract workers provided minimum wage norms are revised accordingly. While the public sector always go by minimum wage norms, as discussed above, many of the comparatively larger private companies pay more than the minimum wages to ensure efficiency. Smaller companies on the other hand are often unable to pay higher wages. Thus, rather than fixing a uniform minimum wage rate for all firms, wage rates for contract labour should be linked to the wages paid by the firm to the direct worker. This would not only reduce wage disparity between regular and contract workers, but also lessen the feelings of discrimination amongst contract workers.<sup>151</sup>

Another survey of construction workers carried by us reveals that their plight is even worse than that of the contract labour in terms of

social security measures. ESI benefits, which are of great help for the contract worker does not cover them. Given the increasing use of non permanent workers in the economy, it is the responsibility of the state to ensure proper social security measures for this vulnerable class, through regulations, especially during periods of unemployment and sickness. In fact, the labour class is ready to contribute to such funds if it actually benefits them. Otherwise, in a labour surplus economy, such non permanent category of workers would remain as toys in the hands of the employers.

Employment insecurity is a pressing problem for millions in the country, the most severely affected being workers in the unorganized sector. This sector is characterized by temporary, seasonal and changing nature of employment, often resulting in long periods of unemployment, absence of a fixed employer-employee relationship, failure of wages to meet minimal requirements, poor work environment, long working hours, irregular incomes, etc., which contribute to the poor employment security of the workers. The database for the study is a large sample of 910 workers in the unorganized sector including 301 construction workers from the agro-climatically different districts of Bangalore, Dakshina Kannada, Gulbarga and Mysore.

The proportion of Construction Workers to the total workforce registered a modest rise (from 2.01 to 2.26 per cent during the period 1981 to 2001). Such a rise was not uniform across the selected districts. The proportion of construction workers declined in Gulbarga, while it increased in Bangalore, Dakshina Kannada and Mysore districts, where

construction activity has been booming. In Bangalore and Dakshina Kannada districts, there was a substantial increase in the proportion of construction workers to total workers. This was particularly evident in the case of male construction workers. A faster growth of construction workers can be seen in Bangalore, Dakshina Kannada and Mysore districts, where important cities in the state are located. This indicates the migration of construction workers into the cities.

Construction workers also had somewhat seasonal employment having very little or no employment during the monsoon. The actual number of months of unemployment for these workers was thus high. They also tended to perceive a gap between employment that they sought and that which they got. A major reason for this is that many of these workers were recent migrants into urban areas from the rural areas, and most of them migrated in the hope of getting more employment than they got in their villages. Although they were successful in this respect, many of them reported that they had expected to be employed for an even greater part of the year. (No. of Construction workers 301 )

District-wise distribution of workers by employment security indices

Employment security	Bangalore	Dakshina Kannada	Gulbarga	Mysore
High	10.67	8.00	1.33	13.16
Medium	42.67	53.33	68.00	42.11
Low	46.67	38.67	30.67	44.74
Mean indices	1.94	1.85	1.83	1.95

The construction workers in Gulbarga and Dakshina Kannada were found to have higher employment security as compared to those in Bangalore and Mysore. Gulbarga, being a district marked by a high rate of out-migration of workers, at times, entire households migrated during the slack seasons. The existing workers, therefore, did not face much competition in terms of employment in construction work. The reverse held good in Bangalore and Mysore, where there has been a high flow of migrant construction workers given the rapid increase in construction activities in the urban areas. In Bangalore, many workers said that they were often driven out of the market by the skilled migrant workers from different parts of the country.

Construction is an occupation where skill improvement is important for employment hierarchy among these workers based on their skill levels, and the unskilled workers (helpers) constitute a highly marginalized and vulnerable group, and face intense competition in the labour market. However, no differences were found among the sample construction workers in their employment security indices with respect to their skill level and perceived improvements in skill. Even though the skilled workers earned wages much higher than the unskilled workers, both these categories of workers faced more or less the same degree of employment security. There were some differences based on the number of years of experience in construction work, however. Interestingly, workers who had been involved in construction work for more than twenty years were found to be the most vulnerable, with an average employment security index of 2.61, as compared to workers who had

been working for between 10 and 20 years (1.91) and those workers for less than ten years (1.86). It was found that contractors usually preferred younger and stronger workers, even though these workers had relatively less experience. For workers who had been working for more than 20 years, age and physical strength often worked against their employability. These workers said they were under constant threat of competition from the younger workers, and often lost out to the latter. In addition, the employment insecurity for them was more at the level of perception. These workers had to support families, take care of elders, etc., as against the younger workers whose incomes were usually only an addition to their respective household incomes, and to that extent, their responsibilities were lesser.

It is not hard to understand why, Agricultural and construction workers usually work for multiple employers, and they shift from one employer to another periodically, often on a daily basis. The study finds that, for unorganized workers, employment security means primarily the guarantee of continuous employment, and only after this is guaranteed, policies intending to regulate conditions of employment, etc., become pertinent. When the unorganized workers report that they are employment-insecure, they most often mean that they do not know whether or not they will have work the next day or the next week, rather than that the conditions of work have been poor, overtime has not been paid, etc.

The important point here is that while these aspects of employment security are not unimportant, as a first step, attempts must be made to

ensure continuous employment to these workers. As mentioned above, currently, only an 'elite' section of the construction workers enjoy the benefits of the social security policies of the government, because they are registered and are also employed throughout the year. For the large majority, who work for an assortment of contractors for daily wages, these policies would be very difficult to implement in the absence of continuous employment. It is guaranteed employment that will not only enable them to earn steady incomes, but also help them move closer to the organized sector. <sup>152</sup>

From the preceding para it makes clear that construction industry engages work force through contractors and the role of the contractor in improving the working conditions of the construction work force is sparse rather than accomplishment of their end products by violating the labour laws, in particular the beneficial legislations. The number of contractors is increasing day by day which has become a concern for the executive to make them liable for rendering compliance under the labour laws. Many of the contractors undertake the work without identifying themselves or by obtaining licences from the appropriate Government and continue to exploit the construction work force in marginalising the profit in their endeavour at the cost of welfare of the construction workforce.

#### **(IV) MINIMUM WAGES TO CONSTRUCTION WORK FORCE IN REAL SENSE OF THE TERM**

The provisions of the Minimum Wages Act are intended to achieve the object of doing social justice to workmen employed in the scheduled employments by prescribing minimum rates of wages for them. It aims at statutory fixation of minimum wages with a view to obviate the chance of exploitation of labour. The legislature undoubtedly intended to apply this Act not to all industries but to those industries only where by reason of unorganized labour or want of proper arrangements for effective regulation of wages or for other causes of exploitation of labour. It is with an eye to these facts that the list of trades has been drawn up in the schedule attached to the act, but the list is not an exhaustive one and it is the policy of the legislature not to lay down at once and for all time to which industries the Act should be imposed upon the freedom of contracts of the employers and such restrictions cannot in any sense be said to be unreasonable. The Act purports to prevent exploitation of labour and for that purpose it authorises the appropriate Government to take steps to prescribe minimum rates of wages in the scheduled industries. In an underdeveloped country, which faces the problem of unemployment on a very large scale, it is not unlikely that labour may offer to work even on starvation wages. The policy of the Act is to prevent the employment of such sweated labour in the interest of the general public. Conditions of labour vary under different circumstances and from state to state.

The fixing of minimum rates of wages is limited to employments specified in Part I or Part II of the Schedule. The appropriate Government has under Section 27 of the Act <sup>153</sup> power to add to either part of the Schedule any employment in respect of which it is of opinion that minimum rates of wages should be fixed under the Act. The appropriate Government is authorized to review the minimum rates of wages once fixed at such intervals as it may deem fit but such review has to be done within five years.

The liability of the appropriate Government under the Act to fix minimum wages is with respect to any schedule employment where more than one thousand persons are employed in the whole State. The minimum rates of wages fixed can be on the basis of time work or piece work but the Government can fix a minimum rate of remuneration for time work and piece work.

Undoubtedly building construction work is included in the Schedule –II Act and this aspect entitles minimum wages for construction worker as a matter of Right for having employed in the construction industry. On the contrary the construction work force is met with disparity in payment of minimum wages due to violation of rules by the Building Contractors and employers of the Establishment and also due to lack of effective enforcement and redressal machinery of the Government. Further migrant construction workers are paid less than the minimum wages besides exploitation of labour by most of the contractors and employers of the Establishment. Before going into the details, there

needs a mention about the concept of minimum wage and its implications in the real sense of the term.

**Minimum Wages: Concept of: Different from bare subsistence**

Broadly speaking, wages have been classified into three categories, viz. (1) the living wage, (2) the fair wage, and (3) the minimum wage. At the bottom of the ladder, there is the minimum basic wage which the employer of any industrial labour must pay in order to be allowed to continue in industry. Above this is the fair wage, which may roughly be said to approximate to the need based minimum, in the sense of a wage which is "adequate to cover the normal needs of the average employee regarded as a human being in a civilized society". Above the fair wage is the "living wage"- a wage "wage which will maintain the workmen in the highest state of industrial efficiency, which will enable him to provide his family with all the material things which are needed for their health and physical well being, enough to enable him to qualify to discharge his duties as a citizen". While industrial adjudication will be happy to fix a wage structure which would give the workmen generally living wage economic considerations make that only dream for the future. That is why the Industrial tribunals in this country generally confine their horizon to the target of fixing a fair wage.<sup>154</sup>

*In Crown Aluminum works v. Their Workmen*<sup>155</sup> the supreme court reflected the concept and importance of the minimum wage which needs to be paid by all the employer so that the labour force can meet their ends and to some extent retain their efficiency, yet some of the employers hardly adhere to these directions and continue to pay less

than the minimum wages to the construction work force. The study conducted by various scholars and the articles referred to in the preceding paras makes explicit that exploitation of the Construction labour force is prevalent in one form or the other and failure of the enforcement machinery as well as inspection by the concerned authorities is a matter of concern and steps needs to be initiated by resorting to all possible legal recourse such as prosecuting the contractors / employers and other methods so that the interest of the construction labour force is protected and action will be in furtherance of the welfare measures as outlined in directive principles of the constitution.

At present the concept of a minimum wage is a wage which is somewhat intermediate to a wage which is just sufficient for bare sustenance and a fair wage. That concept includes not only the wage sufficient to meet the bare sustenance of an employee and his family. It also includes expenses necessary for his other primary needs such as medical expenses, education for his children, and in some cases transport charges, etc.

In *U. Unichoyi v. State of Kerala*,<sup>156</sup> after referring to the report of the Committee on Fair Wages, the Supreme Court observed:

“The committee came to the conclusion that a minimum wage must provide not merely for the bare subsistence of life but for the preservation of the efficiency of the worker, and so it must also provide for some measure of education, medical requirements and amenities. The concept about the components of the minimum wage thus

enunciated by the Committee has been generally accepted by industrial adjudication in this country. Sometimes the minimum wage is described as a bare minimum wage in order to distinguish it from the wage structure which is 'subsistence plus' or fair wage, but too much emphasis on the adjective 'bare' in relation to the minimum wage is apt to lead to the erroneous assumption that maintenance wage is a wage which enables the worker to cover his bare physical needs and keep himself just above starvation. That clearly is not intended by the concept of minimum wage. On the other hand since the capacity of the employer to pay is treated as irrelevant it is but right that no addition should be made to the components of the minimum wage which would take the minimum wage near the lower level of the fair wage but the contents of this concept must ensure for the employee not only his sustenance and that of his family but must also preserve his efficiency as a worker.

In *Workmen v. Reptakos Brett & Co. Ltd* <sup>157</sup> the Supreme Court observed that the following five norms for the fixation of minimum wage had been accepted by the Tripartite Committee of the Indian Labour Conference and approved by the Supreme Court in *Standard Vacuum Refining Co. of India v. It's Workmen* <sup>158</sup>

- (i) In calculating the minimum wage, the standard working class family should be taken to consist of 3 consumption units for one earner, the earnings for women; children and adolescents should be disregarded.

- (ii) Minimum food requirement should be calculated on the basis of a net intake of calories, as recommended by Dr. Aykroyd for an average Indian adult of moderate activity.
- (iii) Clothing requirements should be estimated at per capita consumption or 18 yards per annum which would give for the average workers family of four, a total of 72 yards.
- (iv) In respect of housing, the rent corresponding to the minimum area provided for under Government's Industrial Housing Scheme should be taken into consideration in fixing the minimum wage.
- (v) Fuel, lighting and other 'miscellaneous' items of expenditure should constitute 20 per cent of the total minimum wage.

Keeping in view the socio-economic aspect of the wage structure, the Supreme Court observed that it was necessary to add the following additional component as a guide for fixing the minimum wage in the industry:

- (vi) Children's education medical requirement, minimum recreation including festivals/ceremonies and provision for old age, marriages, etch. Should further constitute 25 per cent of the total minimum wage.

The Supreme Court further observed:

"The wage structure which approximately answers the above six components is nothing more than a minimum wage at subsistence level. The employer who cannot pay the minimum wage has no right to engage labour and no justification to run the industry.

The concept of minimum wages has to be dynamic. It is a wage structure above the mere subsistence wage. It takes into account primary amenities such as medical care and education. As standard of living increase there must be a gradual change in the concept of minimum wages in any developing economy. Hence, there is no reason to assume that fair wages fixed years ago should continue to be fair wages for all time and any subsequent fixation of minimum wages should be taken not really as minimum wages but as fair wages for the simple reason that it is above the fair wages. "As a rule, though the 'living wage' is the target, it has to be tempered even in advanced countries, by other considerations, particularly to general level of wages in other industries and the capacity of industry to pay. This view has been accepted by Bombay Textile Labour Enquiry Committee." Thereafter, the Supreme Court in *Express Newspapers (P) Limited V. Union of India* has proceeded to observe<sup>159</sup> "In India, however, the level of the national income is so low at present that it is generally accepted that the country cannot afford to prescribe by law a minimum wage which would correspond to the concept of the living wage.... We consider that a minimum wage must provide not merely for the bare sustenance of life but for the preservation of the efficiency of workers. For this purpose the minimum wage must also provide for some measure of education, medical requirements and amenities".

"There is also a distinction between a bare subsistence and statutory minimum wage. The former is a wage which would be sufficient to

cover the bare minimum needs of a worker and his family, that is, a rate which has got to be paid to the worker irrespective of the capacity of the industry to pay. If an industry is unable to pay its workmen at least a bare minimum wage it has no right to exist”.

The Supreme Court further observed that the statutory minimum wage might be higher than the bare subsistence wage or minimum wage providing for measure of education, medical requirements and amenities as per connotation of ‘minimum rate of wages in Section 4 of Minimum Wages Act.

In *Kerala Hotel and Restaurant Association v. State of Kerala*,<sup>160</sup> notification dated 15-5-1987 issued by the State Government of Kerala fixing minimum wages payable to the classes of employees employed in shops and establishments including hotels and restaurants and lodges, was impugned inter alia on the ground that under the guise of fixing the minimum wages the Government had really fixed fair wages as much as it had fixed not only wages required for food shelter and clothing, for bare subsistence but also wages necessary to meet the other needs of the employee and his family, for a fair living. It was further submitted that the employees of hotels and restaurants were also given free food in addition to the wages although no provision had been made for increasing the cost of food supplies. Rejecting these contentions, a Division Bench of the Kerala High Court observed:

“Minimum wage is not mere ‘maintenance wage’ enabling the worker to cover his bare physical needs and keep himself just above

starvation. It should ensure not only his sustenance and that of his family but also preserve his efficiency as a worker. It has, therefore, to provide for some measure of education, medical requirements and other necessary amenities. The capacity of the employer to pay has no relevance in the concept of minimum wages. The contention that minimum wage has to be co-related to bare sustenance cannot be accepted. Minimum wage is bare wage with a plus element. In this case, the Committee has fixed only minimum wages and not fair wages.

In *Kamani Metals & Alloys Ltd v. Workmen* <sup>161</sup> the Supreme Court observed: "Fixation of a wage structure is always a delicate task because a balance has to be struck between the demands of social justice which requires that the workmen should receive their proper share of the national income which they help to produce with a view to improving their standard of living and the depletion which every increase in wages makes in the profits as this tends to divert capital from industry into other channels thought to be more profitable. The task is not rendered any easier because conditions vary from region to region, industry to industry and establishment to establishment. To cope with these differences certain principles on which wages are fixed have been stated from time to time by this Court, broadly speaking the first principle is that there is a minimum wage which, in any event, must be paid irrespective of the extent of profits, the financial condition of the establishment or the availability of workmen on lower wages. The minimum wage is independent of

the kind of industry and applies to all alike big or small. It sets the lowest limit below which wages cannot be allowed to sink in all humanity. The second principle is that wages must be fair, that is to say, sufficiently high to provide a standard family with food, shelter, clothing, medical care and education of children appropriate to the workman but not at a rate exceeding his wage earning capacity in the class of establishment to which he belongs. A fair wage is thus related to the earning capacity and the work load. It must, however, be realized that 'fair wage' is not 'living wage' by which is meant a wage which is sufficient to provide not only the essentials above-mentioned but a fair measure of frugal comfort with an ability to provide for old age and evil days. Fair wage lies between the minimum wage, which must be paid in any event, and the living wage, which is the goal. .”

It must be mentioned here that construction activity is covered under the Minimum Wages Act, 1948. Under the provisions of this Act, every state government determines minimum wages based on the recommendations of various sub-committees appointed for its fixation. However, most workers at these sites are generally not even paid the minimum wage. Also because the minimum wage varies from state to state the wage rate of the worker never remains fixed. Moreover, since the nature of work involved in the industry does not ensure regularity of work, the worker's earnings actually depend on the number of days he works. These incomes are, however, much higher and more frequent

of labour in the labour market is so abundant that it makes sense for an unskilled to work even at the rate of Rs.50/ and the skilled one at Rs.100/ a day than to skip a job in a particular day. There are few examples that some organizations had taken up cases of non-payments of wages to the workers after receiving complaints from workers.

### Wage and Employment Benefits

Wage rates Rs.	No. of male skilled workers	Wage rate of unskilled workers	No. Women unskilled workers
100-120	7	< Rs. 70	7
120-130	71	Rs. 70	17
130-140	36	Rs. 80	5
140-150	27	Rs. 90	1
150-180	22	Rs. 100	4
180 and above	3	Rs. 100 and above	6
Total sample	166		40

Frequency of payment of wages.	Skilled male workers	Women workers
Daily	10	12
Weekly	106	24
Fortnightly	38	2
Monthly	12	2
Total sample	166	40

	Male workers	Women workers	Male workers	Women workers	Male workers	Women workers
	Gets reasonable wage	Gets reasonable wage	Receive wage regularly	Receive wage regularly	Aware of legal protection of workers	Aware of legal protection of workers
Yes	53	9	153	39	18	-
No	93	31	13	1	148	40
Total sample	166	40	166	40	166	40

About half of the skilled male workers in our sample reported that they earn in between Rs. 2500 to 3500 in a normal month. About one third of the workers earn in between Rs. 3500-4500 a month. There are few workers who earn up to six thousand rupees a month. However, during the peak months the earnings of the workers go up due to availability of work for more number of days and also due to overtime and contract nature of jobs. The data shows the shift of workers to the higher income categories during the peak months. This is found to be the same for the unskilled women workers even though they earn much less than the skilled workers.

In large-scale constructions generally the workers receive the wages from the labour contractors. In such cases the chances of getting wages directly from the builder is unlikely. It was found that altogether about 40 percent workers reported that they receive their wages directly from their employers and the remaining 60% from the middlemen/contractors. The rest receive wages from the intermediaries. Those who receive wages through intermediaries, most of them 76 percent believe that the wages they receive are meant for them. The rest believe that the contractors take a proportion of the wage, which is generally the case. In most cases wage rates are decided by negotiations in between the labour contractors and the workers. However, there are large incidences that wage rate is decided by the labour contractors. There are some prevailing rates for the workers as per their capabilities and skill and accordingly the labour contractors fix the wages. The head of the masons or any other categories of skilled workers required in the

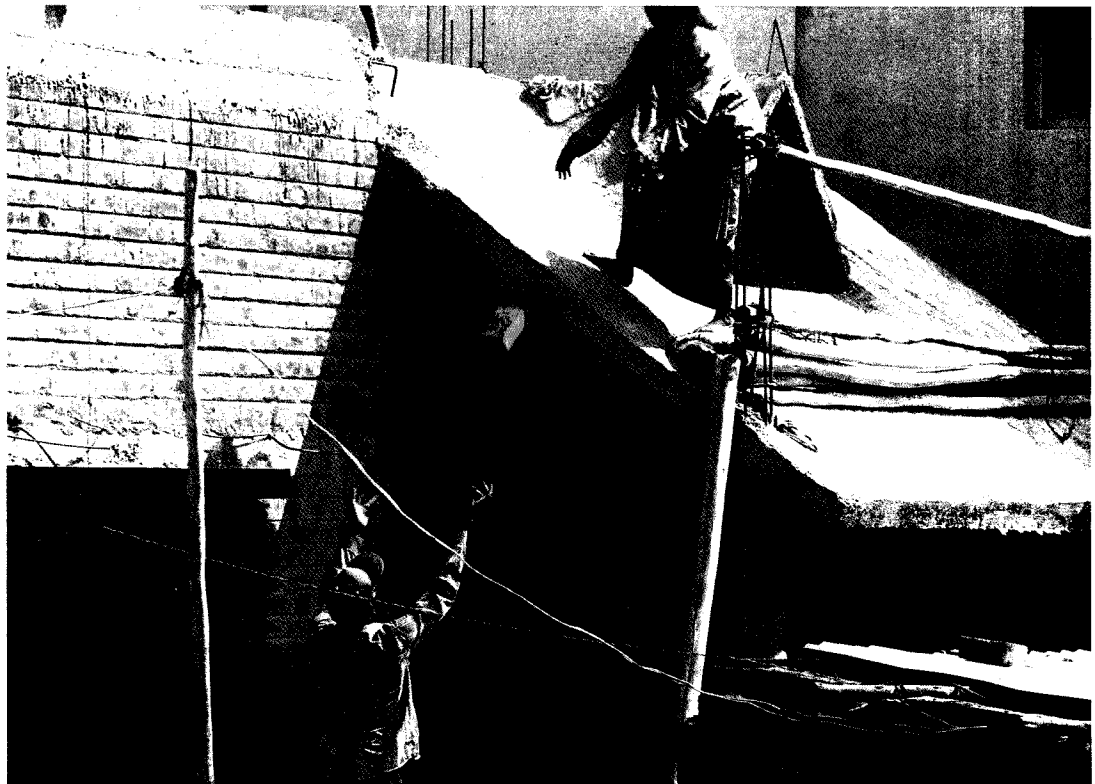
construction process are paid more and the rest brought by the head worker are generally paid less. In few cases the study found that workers have the say over the fixation of the wages.

Decision on the wage rates	Male workers	Women workers
Employer	76	23
Negotiated with the employer	82	17
Workers	8	-
Total sample	166	40

It was found during the interactions with the workers that collective bargaining in general is not possible in the present construction market. The construction jobs are intermittent and the employers and contractors play the dominant role in wage fixation. The builders make agreements with the labour contractors on the contracts and payments and the workers have no knowledge about the terms and conditions. Generally the contractors' terms are only with the head of the workers and the rest gets according to their desire.

Apart from the wages most of the workers are not aware of legal protections that are available for the construction workers in the country. On the other hand most of the women respondents reported that they receive their wages regularly. Most of the women workers believe that considering the amount of physical labour they put the wage they receive is meager. However, as there is no alternative to earn better wages than

from the construction sector some women workers believe whatever they are getting is all right. At the same time the majority of women workers in sample told that there is gender difference in wages in the labour market and some justify this as men can do more work than women. Moreover few feel that differences exist in nature of work. Despite these explanations many a times the women worker assists in carrying out the construction work by contributing maximum of her effort in her endeavor.<sup>162</sup>



It is relevant to place that pursuing a legal battle for getting minimum wages by the labour force is ardent task besides engulfing themselves in stress and strain for survival without source of livelihood. The lack of collective bargaining and feeble strength in unorganized sector has resulted as an undue advantage in the hands of contractors and builders of the construction industry.

An informal group called the Vivekanand Samiti (VS) began a literacy drive amongst the migrant Chattisgarh workers employed on some of the construction sites in the campus. Initially, the effort was concentrated on getting the children of the workers to attend a temporary school. Through interactions with these children, the volunteers of VS gradually came to know about the miserably low wages being paid to the workers in the campus (which was even less than half of the stipulated minimum wages). They decided to take up the issue with the Institute authorities. Legally, the primary responsibility for ensuring the payment of minimum wages lies with the 'principal employer', in this case, the Institute. In actual practice, the contract workers have little job security and no employment rights. No formal rolls are maintained by the contractors, and since there is no organization to mediate between the workers and the employers, the workers literally work at the mercy of the employers' will and live with the constant fear of losing their employment. Hence, all the organizing efforts by the VS had to be undertaken surreptitiously, though, in the process a few workers did lose their jobs and were blacklisted by the entire lot of contractors working for the Institute. Some of these workers formed the core of the efforts

later undertaken at organizing, which led to the formation of a workers' cooperative in the campus.

The core group of agitating workers and the initiated middle class supporters came up with an ingenuous solution to the problem. They decided to form a workers' cooperative that would bid on behalf of the workers and take up contracts so that the workers would have the freedom to pay themselves the MWs without the interference of the contractors. Thus a workers cooperative, Samiti, was formed in 1992, though in its early phase it faced significant resistance from the administration. The Institute administration even refused to give tender forms to Samiti, and when the fledgling cooperative did manage to bid, they would reject it on some ground or another. But Samiti survived and it has, over the years, has grown to a size of around 200 members at present, and is widely acknowledged as the only contracting organization on the campus which pays the MWs. Samiti, including its members and sympathizers, have been taking up several cases of gross violation of MWs and bringing them to the attention of the larger community and the authorities. But for all practical purposes, except for Samiti, it is the market forces which have largely been deciding the norm for payment of the wages in the campus, irrespective of the stipulated MWs.

In October 2001, the first of the two incidents involving Earthline occurred, where a set of 53 workers from Central Bihar lodged a complaint with the MCW to settle their claim of Rs.2,28,170/-, which according to them, was due as outstanding wages for the months of July

to October 2001 for the work done on the construction site of a new hostel. The workers lodged the complaint to the MCW through a labour lawyer, who was earlier associated with Samiti. But, once the complaint was made by the workers, the contractor dismissed all of them from work summarily. Since these workers lived in temporary shelters on with eviction. As the monitoring picked up momentum during the early months of 2002, an interesting development was observed during disbursement of the wages. The Committee and the volunteers noticed that though the correct wages seemed to be given on paper, the actual money disbursed, was significantly lower as large amounts of advance payments were registered against every worker. In view of the consistency of this practice across several contractors, it was surmised that this was most likely a tactic devised for not paying the minimum wages and yet maintaining proper records. No proper records were maintained for the advance payments that were claimed to have been made; but, in spite of the observers' repeated reassurances, none of the workers was willing to testify that advances were actually not paid to him/her. The committee later tried to get around this tactic of the contractors by pressurizing them to pay wages at a greater frequency, may be fortnightly or even weekly, so that the workers would not need advances. Unofficially, observers were told that generally the contractors organized a meeting with the workers before every payment and threatened them with dire consequences if they spoke up against the contractors. In September, the Committee, in a curt letter, communicated its frustration regarding lack of proper records by

contractors of their workers and the indifference of the administration on the issue.

In November 2002, there was another showdown of the Committee with the Institute authorities on the issue of non-payment of due wages to a set of 36 construction workers working for a sub-contractor of M/s Earthline, on one of the hostel construction sites in the campus. These 36 workers and their sub-contractor belonged to the same village in Chhattisgarh. The workers complained that they had not been paid their dues for the previous four months. The usual practice followed by petty contractors is to give some advance to the workers every month and settle the dues of the workers only once they get the payment from the 'company', the original contractor (M/S Earthline in this case). The sub-contractors bid for specific work for a certain amount of money (and usually they operate on very low margins, given the extremely competitive market for the supply of unskilled labour), but there is always a chance of such estimates going wrong because of miscalculations or mismanagement or a combination of both. In this case, the petty contractor claimed that 'humko ghata hua hai' (he had suffered losses) and hence he could not pay his workers. The issue went through several claims and counterclaims amongst the three parties -M/S Earthline, the sub-contractor and the workers. The 'company' claimed that they had cleared all the dues, while the petty contractor claimed otherwise-and there probably was some truth in the claims on both sides as the initial estimate of the sub-contractor was so low that it was most likely impossible to do the work in that amount and either way, the fact

remained that the workers had not been paid their due wages. The Institute felt that the issue was beyond their purview since it had cleared the main contractor's wages. M/s Earthline, after pocketing a huge profit, were still 'legally' correct for having settled the petty contractor's due, and the petty contractor would have also cleared himself of any liability towards the workers if the workers had let him go. But the workers held on to their claims and since the petty contractor belonged to the same locality and his economic means were only marginally above those of the workers themselves, he was stuck with them.<sup>163</sup>

The judicial interpretations by the Court for payment of minimum wages by the employers engaged in the organized and unorganized sector is amply clear reiterates to the fact that non payment of minimum wages results in deprivation of the livelihood of the work force as also violation mandatory directions. On the other hand it is evident that the workers engaged in the unorganized find it extremely difficult to raise their voice for getting their legitimate rights and monetary benefit. There needs an inbuilt mechanism for disbursement of wages in particular to the construction workers through the organs of the Government and under its surveillance so that these unorganized workers get the wages in proportion to their physical efforts and enable them to mitigate their stress in the day to day life.

## **(V) AWARENESS OF CONSTRUCTION WORK FORCE**

Ignorance is a powerful barrier to the fulfillment of socioeconomic rights. In matters of workers' safety, ignorance of rights is compounded by the economic necessity of sustaining livelihood. Economic necessity poses a serious constraint upon workers complaining about conditions of work. The choice is between economic death, as industrial law often describes the consequences of termination, or disease, debilitation and death caused by working in a hazardous environment. Prospective workers have no bargaining power to scrutinise working conditions. Present workers are chilled into silence. Past workers are lost in the oblivion of faded memories. The regulatory authority entrusted with the task of enforcing statutory standards designed to promote health, safety and welfare of workers, therefore, has a vital role to play in the achievement of statutory norms.

The dearth that is perceived in cases such as the present is not of the existence of legislation, but of the implementation of legislative standards. The Factories Act, 1948 contains detailed provisions for ensuring the welfare of workers and for guarding against unhygienic and dangerous conditions of work. Special provisions have been made for regulating hazardous processes. These provisions are supplemented by other salutary provisions such as the appointment of Safety Officers under Section 40B and for the conduct of safety and occupational health surveys in Section 91A. Detailed provisions have been made for the appraisal of hazardous processes, the disclosure of information by

Table-33 Education Level of Workers, 1993-94 to 2004-05 (UPSS) <sup>164</sup>

Educational level	Male			Female		
	1993-94	1999-2000	2004-2005	1993-94	1999-2000	2004-05
	<b>Rural</b>					
Not literate	437	396	338	785	739	664
Literate & upto						
Primary	291	273	294	142	155	184
Middle	137	163	181	43	62	87
Secondary	75	93	93	19	28	36
Higher Secondary	33	42	46	6	9	14
Diploma/certificate	-	-	10	-	-	5
Graduate & above	26	33	38	4	6	9
	<b>Urban</b>					
Not Literate	184	160	131	489	439	373
Literate & upto						
Primary	258	219	227	197	176	203
Middle	173	188	194	84	103	119
Secondary	155	169	150	76	88	73
Higher secondary	87	94	92	47	55	51
Diploma/certificate	-	-	37	-	-	34
Graduate & above	143	168	169	106	139	147
All	1000	1000	1000	1000	1000	1000

occupiers, provision of medical facilities, maintenance of health records, prescribing permissible limits of exposure to chemical and toxic substances, and for laying down emergency standards. The right of workers to be fully informed on issues concerning health and to participate in safety management are instances of rights which are constitutionally recognized and implemented by legislation.

As this case demonstrates the absence of updated medical records results in a virtual denial of access to justice. In the absence of information, factory workers and all those who espouse the cause of workers cannot realistically attempt to redress the systemic failure on the part of the regulated industry to maintain mandatory standards. Workers drawn from near and far to a place of employment disperse, often without a trace into far flung villages after employment ceases. In the absence of any social security that will tide over their physical and mental afflictions erstwhile industrial workers are lost to the unorganized sector. Once dispersed, the workers are difficult to access. New workers are available to fill in the breach in a labour surplus economy. Unless employers are rigidly held down to a regime of strict compliance, a relaxed regime of enforcement and the minimal penalties for a defaulting employer furnish no disincentive to non compliance or, worse still, to evasion. As this case itself shows, the Factory Inspectorates are woefully understaffed. The available staff does not possess requisite training necessary for dealing with complex industrial processes and hazards which they are liable to pose to the health of workers. Record keeping is

in a primitive stage. It is only when a litigation confronts an employer that some remedial measures are taken to alter the existing state of affairs. We would, therefore, impress upon the Central and the State Governments the need to take immediate steps to rectify the situation and to be alive to the dangers to which industrial workers are being increasingly exposed in hazardous employments. <sup>165</sup>

Although the Building and Construction Workers (Regulation of Employment and Conditions of Services) Act, 1996 has been enacted to regulate the employment and working conditions of building and other construction workers and to provide for their safety, health, welfare and other matters concerned with social security. But the data on level of awareness reveals that all the construction workers do not have the knowledge about this enactment. 70.4% of the male construction workers do not know about the provisions of minimum rate of wages, maximum working hours in a day and the payment of wages. As far the women workers are concerned, none of the women workers responded positively regarding awareness of the above said provisions. Almost all the migrant workers do not know about their registration by the contractor, displacement allowances and traveling allowance to provide to them under the inter-state Migrant Workmen (Regulation of Employment and Condition of service) Act 1979.

In another study on construction workers of Bombay as high as 88 per cent of the respondents were found to be illiterate. "The caste components in different occupational categories indicate that workers belonging to Scheduled Caste/Tribes are more dominant in the category

of unskilled occupations. A reverse situation is seen in the case of skilled occupations. Workers belonging to upper castes are more in skilled occupations than workers belonging to Scheduled Caste/Tribes. <sup>166</sup>

Most such labourers remain perpetually indebted to the Maistries or Mukadams by virtue of loans raised and continuous under-payments of wages. Many of them for years cannot even clear up the initial loan that they raise from the maistries for meeting expenses of migrating or paying off the debts that they incur at the village itself. With a very high degree of illiteracy and group fragmentation based especially on village and kinship ties, it becomes impossible for these groups to get organized as unions and consequently they become easy prey for these giant projects. An unprecedented growth in the building construction industry in many of the million-plus cities in the country has also started drawing this labour for works related to digging, load carrying, etc., besides the road and railway network building projects where such groups mainly work in laying and consolidation of tracks, stone metal and earthwork. As per the data collected, we find that 64% of the construction workers are illiterate, 11% have completed primary school, another 11% middle school, 12% high school and 2% higher secondary. Amongst the male workers 57.32% and amongst the female workers 94.44% were illiterate.

167

### Education Level of Migrant Construction Workers

Construction Workers	Illiterate	Primary School	Middle School	High School	HS	Above HS	Total
Males	47	11	11	11	2	-	82
Females	17	-	-	1	-	-	18
Total	64	11	11	12	2	-	100

Education: The educational level reached by the labourers is quite low: almost half are illiterate, and three-quarters have not reached the sixth standard. Education level attained by different types of labourers, in Vellore and Salem <sup>168</sup>

Educational Level	Regular Labourers		Casual Labourers		Total
	Masons	Male	Masons	Male	
	Helpers		Helpers		
Illiterate	32	58	50	77	47
Std. I-V	33	22	11	18	26
Std. VI-VIII	21	12	39	5	17
Std. IX-X/ITI* 14		8	-	-	10
Total	100	100	100	100	100
Total	127	123	18	22	290

\*Only two workers have completed a course in an Industrial Training Institute (ITI).

Altogether 110 male skilled workers reported that in case of accidents the builder and contractors bear the medical expenses of the workers. The rest of the workers reported that they themselves have to bear the expenses. This information is based on the workers' notion in case of contingencies and not that workers had actually faced such situations. In the case of large construction generally the builders bear the expenses on accidents. It is also seen that contractors also take the responsibilities. However, their capacity and responsibility is generally limited approximately to an extent of Rs.10,000. On the other hand in case of accidents, the large construction companies bear all the medical expenses. It was reported that if there is injury leading to disability of temporary nature the company pays the wages of the worker till he recovers and wage of an additional person to look after him apart from the medical expenses. On the other hand women workers reported that in case of minor accidents workers generally bear the expenses and in major accidents responsibilities fall on the employer.

Most of the workers in our sample **are not aware** of any welfare fund for workers in construction sector. Just 20 male workers in our sample showed their awareness about the Building and other Construction Workers' Welfare cess fund. Those few aware are generally migrants from other states like West Bengal and they have not seen any application of such provisions in the city. The builders with whom we had interaction were aware of promulgation of cess act but not aware of implementation. They told that their liability is limited to provide the medical treatment of the workers in case of mishaps till the workers

recovers. The provisions of maternity allowances, scholarships for educations of the children of workers are not obligatory, though on humanitarian grounds they occasionally offer such helps in case of contingencies. At the same time they try to promote and instruct the workers to adopt the safety measures. However, to them workers are casual in following and adopting the necessary safety measures. Field visit to a large extent had revealed this. Workers were found working in slippers or in barefoot and without using a helmet.

The labour minister had said that only Kerala has set up Building and Other Construction Workers Welfare Scheme and while the Tamil Nadu government is implementing the Construction Workers Welfare Scheme since 1994. The Labour Minister had expressed that the other states could get benefit from the experience of Kerala and Tamil Nadu. it was suggested that registration card should be introduced for the construction workers and employers should be urged only to employ only such cardholders.

The holding of cards should automatically entitle the workers to various welfare benefits under the Act. At present some other states are in the process for constitution of Workers' Welfare Board. There was a move prior to the presentation of the union budget of 2006-07 on levy of cess of 1 to 2 percent on construction projects costing more than Rs. 10 lakhs. The fund generated from the cess was intended to be used for the welfare of building and other construction workers.

# ಕಟ್ಟಡ ಕಾರ್ಮಿಕರ ಅರಿವಿನ ಕೊರತೆ ಸಂಗ್ರಹಿಸಿದ್ದು 146 ಕೋಟಿ ರೂ. ಹಂಚಿದ್ದು 13 ಲಕ್ಷ

**ವಿಲಾಸ್ ಮೇಲಗಿರಿ, ವಿಕ ಸುದ್ದಿರೋಣ**  
ಬೆಂಗಳೂರು: ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಕಟ್ಟಡ ಮತ್ತು ಇತರ ನಿರ್ಮಾಣ ಕಾರ್ಮಿಕ ಕಲ್ಯಾಣ ಮಂಡಳಿಯಲ್ಲಿ ಒಂದೇ ಒಂದು ವರ್ಷದಲ್ಲಿ ಸೇರಿದ ಸಂಖ್ಯೆಯಾದ ಹಣ ಬರೋಬ್ಬರಿ 146 ಕೋಟಿ ರೂ. ಆದರೆ, ಕಾರ್ಮಿಕರಿಗೆ ನೀಡಿದ ಪರಿಹಾರ ಮಾತ್ರ ಕೇವಲ 13 ಲಕ್ಷ ರೂ.!

ಒಬ್ಬ ಫಲಾನುಭವಿಗೆ 11 ರೀತಿಯ ಪರಿಹಾರ ಯೋಜನೆ ಇರುವುದು ಬಹುಶಃ ಇದೊಂದೇ ಮಂಡಳಿಯಲ್ಲಿ ನಿಜ. ಆದರೆ, ಈ ಯೋಜನೆ ಪ್ರಯೋಜನ ಪಡೆಯುತ್ತಿರುವವರ ಕಾರ್ಮಿಕರ ಸಂಖ್ಯೆ ಮಾತ್ರ ಬೆರಳಿನೆಣೆಯಷ್ಟು ರಾಜ್ಯದಲ್ಲಿ 10ರಿಂದ 12 ಲಕ್ಷ ಕಟ್ಟಡ ಕಾರ್ಮಿಕರಿದ್ದಾರೆ. ಬೆಂಗಳೂರಿನಲ್ಲೇ 5 ರಿಂದ 6 ಲಕ್ಷ ಕಟ್ಟಡ ಕಾರ್ಮಿಕರಿದ್ದಾರೆ ಎನ್ನಲಾಗಿದೆ. ಆದರೆ, ಈವರೆಗೆ ಸದಸ್ಯತ್ವ ಪಡೆದವರ ಸಂಖ್ಯೆ ಸುಮಾರು 40 ಸಾವಿರ ಮಾತ್ರ.

ನಿತ್ಯ ರಾಜ್ಯದ ಒಂದೆಲ್ಲ ಒಂದು ಕಡೆ ಕಟ್ಟಡ ಕುಸಿದು ಅಥವಾ ಅಪಘಾತದಲ್ಲಿ ಕಾರ್ಮಿಕರು ಸಾವನ್ನಪ್ಪುವುದು ಸಾಮಾನ್ಯವಾಗಿ ಬಿಟ್ಟರೆ ಬಹುಮಹಡಿ ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಕಾರ್ಯದಲ್ಲಿಯೂ ಕಾರ್ಮಿಕರು ಕೈಯಲ್ಲಿ ಜೀವ ಹಿಡಿದು ಕೆಲಸ ಮಾಡಬೇಕಾಗಿದೆ. ಈ ಕಾರ್ಮಿಕರ ಹಿತ ರಕ್ಷಣೆಗೆ ಸರ್ಕಾರ ಕಲ್ಯಾಣ ಮಂಡಳಿ ಸ್ಥಾಪಿಸಿದೆ. ಆದರೆ, ತೀವ್ರವಾಗಿ ಕೊರತೆ ಅವರ ಬದುಕನ್ನು ಅಭದ್ರಗೊಳಿಸಿದೆ.

## ಬೆಟ್ಟದಷ್ಟು ಸಮಸ್ಯೆ

ಮಂಡಳಿ ಸ್ಥಾಪನೆಯಾದಂದಿನಿಂದ ಈವರೆಗೆ 11 ಮರಣ, 38 ಅಂತ್ಯಸಂಸ್ಕಾರ, 1 ಶಾಶ್ವತ ಅಂಗವಿಕಲತೆ, 1 ಹೆಂಗ್ ಭಕ್ತೆ, 3 ಮದುವೆ ಸಹಾಯ, 4 ಅಸ್ತತ್ವ ಚಿಕಿತ್ಸೆ 8

ಸ್ಕಾಲರ್ ಶಿಪ್ ಪ್ರಕರಣಗಳಲ್ಲಿ ಮಾತ್ರ ಪರಿಹಾರ ವಿತರಣೆಯಾಗಿದೆ. ಕಟ್ಟಡ ಕಾರ್ಮಿಕರು ಮಂಡಳಿಯಿಂದ ಯಾವುದೇ ರೀತಿಯ ಪರಿಹಾರ ಪಡೆಯ ಬೇಕಾದಲ್ಲಿ ಸದಸ್ಯತ್ವ ನೋಂದಣೆ ಕಡ್ಡಾಯ. ಎಷ್ಟೇ ಕಾರ್ಮಿಕರು ನೋಂದಣೆ ಯಾವನೂ ಪರಿಹಾರ ನೀಡಲುಕೂಡದು. ಆದರೆ, ನೋಂದಣೆ ಯಾಗುತ್ತಿರುವವರ ಸಂಖ್ಯೆ ಕಡಿಮೆ ಎನ್ನುತ್ತಾರೆ ಕಾರ್ಮಿಕ ಇಲಾಖೆ ಅಧಿಕಾರಿಗಳು.

## ಸದಸ್ಯತ್ವ ಹೇಗೆ ?

ಕಟ್ಟಡ ಕಾರ್ಮಿಕರಾಗಿ ನೋಂದಣೆ ಪೂರ್ವದ 12 ತಿಂಗಳ ಅವಧಿಯಲ್ಲಿ 90 ದಿನ ಕಟ್ಟಡ ಕಾರ್ಮಿಕರಾಗಿ ಕೆಲಸ ಮಾಡಿರಬೇಕು. 18ರಿಂದ 60 ವರ್ಷ ವಯೋಮಿತಿಯೊಳಗೆ ರಬೇಕು. ಹೆಸರು ನೋಂದಾಯಿಸಲು ಆಯಾ ಜಿಲ್ಲೆಯಲ್ಲಿರುವ ಕಾರ್ಮಿಕ ಅಧಿಕಾರಿಗಳ ಕಛೇರಿ ಅಥವಾ ಬೆಂಗಳೂರಿನ ಕಾರ್ಮಿಕ ಭವನದಲ್ಲಿರುವ ಕಟ್ಟಡ ಮತ್ತು ಇತರ ನಿರ್ಮಾಣ ಕಾರ್ಮಿಕ ಕಲ್ಯಾಣ ಮಂಡಳಿ ಯನ್ನು ಸಂಪರ್ಕಿಸಬಹುದು.

## ಕಾರ್ಮಿಕ ಜಾಗೃತಿ ಅಂದೋಲನ

ಮಂಡಳಿ ಸದಸ್ಯತ್ವ ನೀಡಿಕೆಗೆ ಕಾರ್ಮಿಕರಲ್ಲಿ ಜಾಗೃತಿ ಮೂಡಿಸಲು ಇಲಾಖೆ ವಿನೆಲ್ಲ ಪ್ರಯತ್ನ ನಡೆಸಿದೆ. ಕಾರ್ಮಿಕ ಸಂಘಟನೆಗಳು, ನಿರ್ಮಾಣ ವಲಯದ ಗುತ್ತಿಗೆದಾರರು ಈ ನಿಟ್ಟಿನಲ್ಲಿ ತುಸು ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದಾರೆ. ಎನ್‌ಜಿಒಗಳು ಈಗ ಈ ದಿಸೆಯಲ್ಲಿ ಅಸ್ಪಷ್ಟತೆನೀಡಿವೆ. ಜತೆಗೆ ಆಯಾ ಜಿಲ್ಲೆಗಳ ಜಿಲ್ಲಾಧಿಕಾರಿ ನೇತೃತ್ವದಲ್ಲಿ ಸದಸ್ಯತ್ವ ಅಂದೋಲನ ನಡೆಸಲೂ ಇಲಾಖೆ ಯೋಜನೆ ರೂಪಿಸಿದೆ. ನೋಂದಾಯಿತ ಕಟ್ಟಡ ಕಾರ್ಮಿಕರು ಮರಣ ಹೊಂದಿದರೆ ಅವರ ಅಂತ್ಯಕ್ರಿಯೆಗೆ 2000 ರೂ., ವೈದ್ಯಕೀಯ ಚಿಕಿತ್ಸೆಗೆ ಗರಿಷ್ಠ 2 ಸಾವಿರ ರೂ. ಸಹಾಯಧನ ದೊರೆಯಲಿದೆ. ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದಾಗ ಅಪಘಾತ ಸಂಭವಿಸಿ

ಮರಣ ಹೊಂದಿದರೆ ಅಥವಾ ಶಾಶ್ವತ ಅಂಗವಿಕಲರಾದರೆ 1 ಲಕ್ಷ ರೂ. ಪರಿಹಾರ, ಹೈದ್ರೋಜೆನ್- ಕೆಡಿ ಜೋಡಣೆ ಮತ್ತು ಕ್ಯಾನ್ಸರ್ ಶಸ್ತ್ರ ಚಿಕಿತ್ಸೆಗೆ ಗರಿಷ್ಠ 10 ಸಾವಿರ ರೂ. ಸಹಾಯ ಧನ ಲಭಿಸಲಿದೆ. ಒಂದು ವರ್ಷ ನೋಂದಾ ಯಿತರಾದ ಮಹಿಳಾ ಕಟ್ಟಡ ಕಾರ್ಮಿಕರಿಗೆ ಹೆಂಗ್ ಸೌಲಭ್ಯ 4 ಸಾವಿರ ರೂ. (ಎರಡು ಬಾರಿ ಮಾತ್ರ) ಪಡೆಯಲು ಅವಕಾಶಕೂಡ.

ಕಟ್ಟಡ ಕಾರ್ಮಿಕರ ಅವಲಂಬಿತರ ಮಕ್ಕಳ ವಿದ್ಯಾಭ್ಯಾಸಕ್ಕೆ ಸಹಾಯಧನ ಲಭ್ಯವಿದೆ. ಕಾರ್ಮಿಕರ ಮೊದಲ ಮದುವೆಗೆ ಹಾಗೂ ಅವಲಂಬಿತ ಮಕ್ಕಳ ಮದುವೆಗೆ 5 ಸಾವಿರ ರೂ., ಎರಡು ವರ್ಷ ನೋಂದಾಯಿತರಾದವರಿಗೆ ನಿರ್ಮಾಣ ಕೆಲಸದ ಅನುಕರಣ ವಿಲೇವಾರಿ 5 ಸಾವಿರ ರೂ. ಸಾಲ ಸೌಲಭ್ಯ ಸಿಗಲಿದೆ.

## 300 ರೂ. ಪಿಂಚಣಿ ಸೌಲಭ್ಯ

ಐದು ವರ್ಷ ನೋಂದಾಯಿತರಾಗಿ 50 ವರ್ಷ ವಯಸ್ಸಾದ ಮಹಿಳಾ ಕಾರ್ಮಿಕರು ಹಾಗೂ 55 ವರ್ಷದ ಪುರುಷ ಕಾರ್ಮಿಕರಿಗೆ ತಿಂಗಳಿಗೆ 300 ರೂ. ಪಿಂಚಣಿ ಪಡೆಯಲು ಅವಕಾಶವಿದೆ. ಅಷ್ಟು ಅಲ್ಪ ಕುಷ್ಠ ಕ್ಯಾನ್ಸರ್, ಪಾರ್ಶ್ವವಾಯು ಇತ್ಯಾದಿ ಕಾಯಿಲೆಗಳಿಂದ ಶಾಶ್ವತ ಅಂಗವಿಕಲತೆ ಹೊಂದಿದರೆ ಪ್ರತಿ ತಿಂಗಳು 300 ರೂ., ಮನೆ ಕಟ್ಟಲು 50 ಸಾವಿರ ರೂ. ಸಾಲ ಸೌಲಭ್ಯ ದೊರೆಯಲಿದೆ.

ಅಭದ್ರತೆಯಲ್ಲಿ ತೊಳಲಾಚುತ್ತಿರುವ ಅಸಂಘಟಿತ ಕಟ್ಟಡ ಕಾರ್ಮಿಕರು ಮಂಡಳಿ ಯಲ್ಲಿ ಹೆಸರು ನೋಂದಾಯಿಸಿಕೊಂಡು ಜೀವನ ಭದ್ರತೆ ಪಡೆಯುವತ್ತ ಗಮನ ಹರಿಸಬೇಕು.

## An Assessment of Construction Job Market from Life History of Construction Workers

We had some discussion with few male skilled construction workers about the journey of their life and their future plan. These could help us to capture and consolidate many issues that are inherent in this livelihood sector. Interaction with women workers on some specific issues also expected to help in suggesting better work provisions and future security of the workers.

### Cases of male skilled workers

Twenty three year old Hasan Ali is working as a **mason** in the construction sector for the past six years. Hasan the eldest son of the family had to shoulder responsibilities of his family after the death of his father, the lone bread earner. At the time of death of his father Hasan was in class VIII. Compulsion to look after his family did not permit him to continue his study beyond class X. He had started pulling rickshaw at the age of 15 years and pulled rickshaw for three years. Then he entered the construction sector as an unskilled worker. He got into the sector through one of his friends already working in this sector. In the process of working as the helping hand he learned the skills of mason. It took one and half year to learn the skills of mason. Hasan rates his earning of Rs. 120 per working day as good though it is not as good what a carpenter or a plumber earns in this sector. Although the job requires hard physical effort, the fixed working hours (eight hours per day) provides time to rejuvenate a worker. However, this job sector has some different problems altogether. The seasonal nature of job due

to the monsoon makes the workers virtually jobless for 4-5 months. Moreover the construction workers are sometimes compelled to work in very unhygienic conditions. Hasan had no intention to enter the construction job market. He wanted to be a businessman and lack of finance forced him to enter his present field. Hasan has lots of responsibilities for his family. Besides his wife and the child being the eldest son he has to look after his mother. Moreover he has two sisters to be married off. He has no future plan in his job front and told that all will depend upon the circumstances.

Sixteen year old Ashraf Ali Khan is working as **electrician** for past two years. Their family had migrated from Bihar and his father works as a vendor in Guwahati. Ashraf along with his parents, elder brother and little sister stay at rented accommodation in Guwahati. His elder brother also works as daily wage earner. Ashraf studied upto class IV. Poor economic condition of the family compelled Ashraf to take up job at the age of 14 and entered the job market through a friend of his father. He has acquired the required skill to be an electrician in one year, but because of his age factor he sometimes is not recognized as a full-fledged mistry. Ashraf enjoys his job and finds it remunerative to earn Rs. 150 a day. He used to get just Rs. 60 a day prior to his up gradation as skilled mistry. Ashraf feels that the electrical work is many ways better than other jobs in the construction sector. Their work is mostly confined to interior so in general do not face hostility of weather. The job of electrician was his own choice and he is happy with his job. However, it is difficult to get a new assignment, as there are many

competitors in the market. He is also happy that he is helping his family. He is not worried about his future prospects as his family's responsibilities at the moment is not much. In future Ashraf intends to be an expert electrician and contractor.

Akhtar Hussain, age 32, is working as **plumber** for last 18 years. Akhtar's wife and son live with him at Guwahati in a rented accommodation while his daughter stays with his mother in Bihar. Akhtar had to leave school at the age of 9 because of their poor economic conditions and started to help his father in the agriculture field. However, their small plot of 14 bigha of land was not sufficient to meet the requirements of their family. So, Akhtar came to Guwahati at the age of 14 with support of a person from his village who was working in the construction field. Akhtar got an entry to the construction job market as unskilled labour through that person. It took him four years to learn the skill of plumber. Presently Akhtar is happy with his job as plumber and earns Rs. 160/ a day if he works on time rate basis. However, most of the time Akhtar does contractual job and his earning is based on quantum of job done by him. On an average Akhtar earns Rs. 4000 to Rs. 5000 a month. Akhtar is satisfied with his job for one more reason. His job is not tiring compared to the jobs of most of the construction activities and work is limited to about 5-6 hours in a day. However there are causes of dissatisfactions that some jobs are diverse in nature and complicated apart from the fact of non-payment of deserved money from the employer. Akhtar told that jobs are not easily available and requires effort to search new jobs. Akhtar tries to acquire

jobs by keeping contracts with fellow workers, contractors and friends. Jobs are however not available for 4-5 months in a year forcing Akhtar to sit idle most of the time. Akhtar could save money from his job as he had planned earlier and this helped buy plots of agriculture land in his village. From his savings he has purchased 10 bighas of land in his native village. The present responsibility of Akhtar is to provide education to his children, which he could not attain. In future he wants to go back to his village and do some business along with cultivation in his acquired land.

Kader Mollah does the work of assembling and **fitting of iron bars** in the constructions. Thirty five year old Kader belongs to Dhubri district of the state and belongs to an agrarian family. They had 30 bighas of land. However, flood and river erosion took away a larger chunk of their land leaving just only 9 bighas of land the return of which was insufficient for the family of six brothers and two sisters. All these forced Kader to enter the construction job market with the help of a friend. It took six years to learn the complex skills of his job. Kader loves his job, but feels that considering the effort put in the job, the wage is not remunerative. He gets a daily wage of Rs. 120. Moreover, his job is risky with chances of getting injured. Kader said that jobs are not easily available at the construction sector. Kader who studied upto class III wanted to start some business but was compelled to enter job in the construction sector due to lack of capital. Kader wants to provide all possible facilities to his children. Kader does not want to settle in

Guwahati. After making a considerable savings from his earning he intends to go back to his village to start some small business.

Forty two year old Abul Hussain has been working as **painter** in the construction sector for past 10 years. He took over the responsibility of his family at the age of 18 after the death of his father. He had four bighas of land for cultivation but recurrent flood every year made Abul to look for other alternative. Considering the age of other entrants, Abul was a late entrant in this job sector and a personal friend had helped him to get the entry. Abul took about 6 months to learn the skills of painter. Abul likes his job. However, there is immense risk in this job particularly when they are required to paint the exterior of high rise buildings. He gets Rs. 150/ a day if he works on time rate basis and if the job is on work rate basis it even fetches him on an average upto Rs. 250/ on a day. However, he feels that the work is very tiring. Abul reported that jobs are not easily available. It requires lots of effort in searching jobs. For six months in the year they become virtually jobless. Illiterate Abul does not know any other work in the construction sector, so there is no question to shift his job. Moreover he enjoys his job. Two of Abul sons are working as wage earner and one son is studying at class IX. He has married off his daughter. Now he does not have much responsibility for his family. He intends to work for maximum three years as his sons have grown up to take the family responsibility.

This is true that among the skilled construction workers we do not find a women worker. However, there are abundant women workers who work as supporting hands in the construction sector in the city.

of these workers. The very character of the construction industry and the way it remains organized in the country entraps the migrant as well as contract labourer into a system where most legislations tend to fail, for they have generally been extensions, amendments, modifications or replicas of Rules and Acts meant actually for workers and work situation in the organized sectors. In fact, this very nature of the industry itself and the logistics of recruitments, payments and phase-specific jobs, coupled with a high rate of illiteracy and marginalization of workforces in the rural areas, make it difficult for them to organize and aim towards acquiring a position of collective bargaining. A candid evaluation of the industry and legislations shows that a self-regulating legislation alone can regulate the industry and alleviate the conditions of the workers and meet their aspirations. Major causes of accidents in this sector are working during night in poor lighting arrangements, failure or collapse of scaffolding and centering, handling of heavy loads, blasting and electrocution. "An incredibly high 14.4 per cent surveyed households had at least one member injured in an accident on site either from a fall, electrocution or from falling debris. These kinds of incidents are also reported in news papers occurring in the Bangalore city.

24-year-old Prakash, working with a contractor under BMRC, was killed when the balcony on which he was standing collapsed. His death raises questions on safety of workers

# Labourer dies as balcony caves in

TIMES NEWS NETWORK

Bangalore: A 24-year-old worker died when the balcony of a building collapsed on Saturday morning during demolition work for the Namma Metro project at Rajajinagar.

Prakash, 24, a worker with 'Sai Retrofabs', a firm under contract from BMRC, was helping with demolition work near Devalah Park.

His cousin, Murthy, who was working in another building nearby, said the balcony on which Prakash was standing suddenly caved in and he was stuck in the debris.

Sumanth, a resident, alleged that nobody came forward to help Prakash while he cried for help. It was only some time later that locals rescued



him and took him to K C General Hospital in Malleswaram, where he succumbed. He had suffered severe head injuries.

Hailing from Kangalli near Kollagal, Prakash had come to Bangalore three years ago and was staying with Murthy. His father Charnabasaviah, and mother Gouramma, live in Kangalli while his younger brother Basavaraju is pursuing a diploma in Chamaraajinagar.

While locals claimed that Prakash was not wearing a helmet, Murthy said they were given helmets but Prakash didn't realize he was without one when the balcony caved in.

It's unfortunate, says BMRC

Terming the incident unfortunate, BMRC said the contractor swung into action immediately. "The injured worker was admitted to a nearby hospital, where he was pronounced brought dead," BMRC said. Further, the contractor had insured the worker for Rs 3 lakh as per labour welfare norms.

"An inquiry has been ordered by safety experts to ascertain the cause," the corporation said. "We have told the contractor to take extra precautionary measures."

## METRO PROJECT MISHAPS SO FAR

• **December, 2008:** A crane on CMH Road toppled onto the sidewalk, leading to protest by residents on December 15. There were no casualties. The crane driver reportedly lost balance. As the crane fell on its side, it smashed the barricade on its left and fell on the pavement, almost reaching the entrance of a nearby hotel

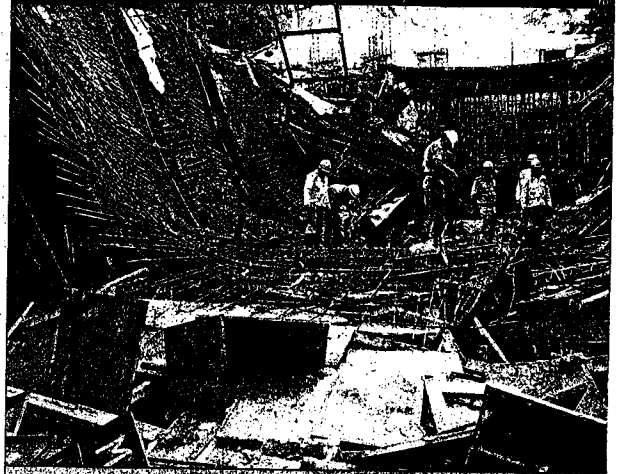
• **January 2, 2009:** A barricade crashed on Old Madras Road, damaging a car. The driver escaped unhurt.



• **January 29, 2009:** An old house in Rajajinagar being demolished for the Metro Project caved in, injuring four workers

• **January 11, 2009:** The Metro Project claimed its first victim when a 20-year-old youth was killed after he came under the wheels of a JCB earth-mover on M G Road-Brooke Road junction. According to Cubbon Park traffic police, the driver of the earth-mover, Sava, reversed the vehicle, not realising Gowd was standing behind. The security guard's lower body was caught under the wheels.

## UNSAFE WORKPLACE?



UNFORTUNATE DAY: Five construction workers were injured when an under construction building at 6th Block, Rajajinagar, collapsed on Saturday. At 3.30 pm, the centering of the building collapsed when the labourers were at work. The injured are Devalah Park, Shivanthi, Shivakumar, 18, and Sumanth, Basavaramurthy, 25. All the workers were rescued.



SUNDAY TIMES OF INDIA, BANGALORE  
MAY 24, 2009

SUNDAY TIMES OF INDIA, BANGALORE  
OCTOBER 26, 2008

# Tower collapse: civic agencies in the dock

## Upa Lok Ayukta To Probe Dereliction Of Duty

TIMES NEWS NETWORK

Bangalore: Two days after a tower at the Prestige Shantiniketan project in Whitefield collapsed, a number of civic agencies have been taken to task.

Upa Lok Ayukta G Patri Basavana Goud has initiated an inquiry into possible dereliction of duty by government departments in execution of the project. He has appointed former town planning director K L Anande Gowda to assist him.

Taking a dig at the police, Goud noted that though a few workers were hurt, it was reported that they were not traced. Besides, the mysterious death of security guard Shivanthi has to be probed; he said. Both the police, and the labour department have to answer why details of those injured in the collapse were not disclosed, he added.

The BBMP and BDA will have to reply on whether the plan was sanctioned in accordance to the rules, and also regarding periodical inspections to oversee the construction. The food and civil supplies department has been asked to explain whether they come into the picture only after a consumer complains about shortcoming in service. In this case, the consumers would have paid lakhs to the construction company without having a say in the quality of construction.

Goud will also probe the role of Pollution Control Board, Bescom, BWSSB and fire force in relation to the complex, he said. Before a complete inquiry into the issues, Basavana



Upa Lok Ayukta G Patri Basavana Goud said the police and labour department will have to answer why details of those injured in the collapse were not disclosed

Goud has ordered a preliminary inquiry where specific public servants will be identified for dereliction of duty.

Two more arrested

Kadugodi police have arrested two more persons in connection with the collapse. The arrested, Srinivas and Murulidhar, are employees of LJM, the construction contractor.

Four persons have been arrested so far. On Friday, the police arrested LJM's construction secretary Ravi Hoskoti and project engineer Nanda Kishore.

Police said experts from Chennai and Malaysia have arrived to inspect the collapsed building. After their opinion, the process of clearing the debris will begin.

## Deccan Herald - 24-10-2008 Four hurt; engineers flee Building falls, many trapped

DH NEWS SERVICE

BANGALORE: Portions of 16 floors of a 17-storey building under construction near White Field collapsed like a pack of cards on Thursday evening.

Many are feared trapped under the debris, and four injured have been shifted to Vaidehi hospital.

Rescue efforts by fire force personnel were hampered due to rain and darkness, police said.

Within minutes of the collapse, workers, security, engineering and other support staff vanished from the scene.

Some 100-150 workers were engaged in the construction of the roofing on the 15th floor since morning. By evening, the left wing of the building came down, said Kadugodi police. The commercial complex belongs to Prestige Shantiniketan.

Chaitanya properties had inked a joint venture with the Prestige group, and



Parts of the building that collapsed. The picture was sent by our reader Dinesh Baliga.

a Malaysian company, LJM (India) Infrastructure Ltd, was entrusted with the construction. The massive project on more than 130 acres was planned with state-of-the-art structures with 3,000 apartments, a business centre, commercial suites and a multiplex.

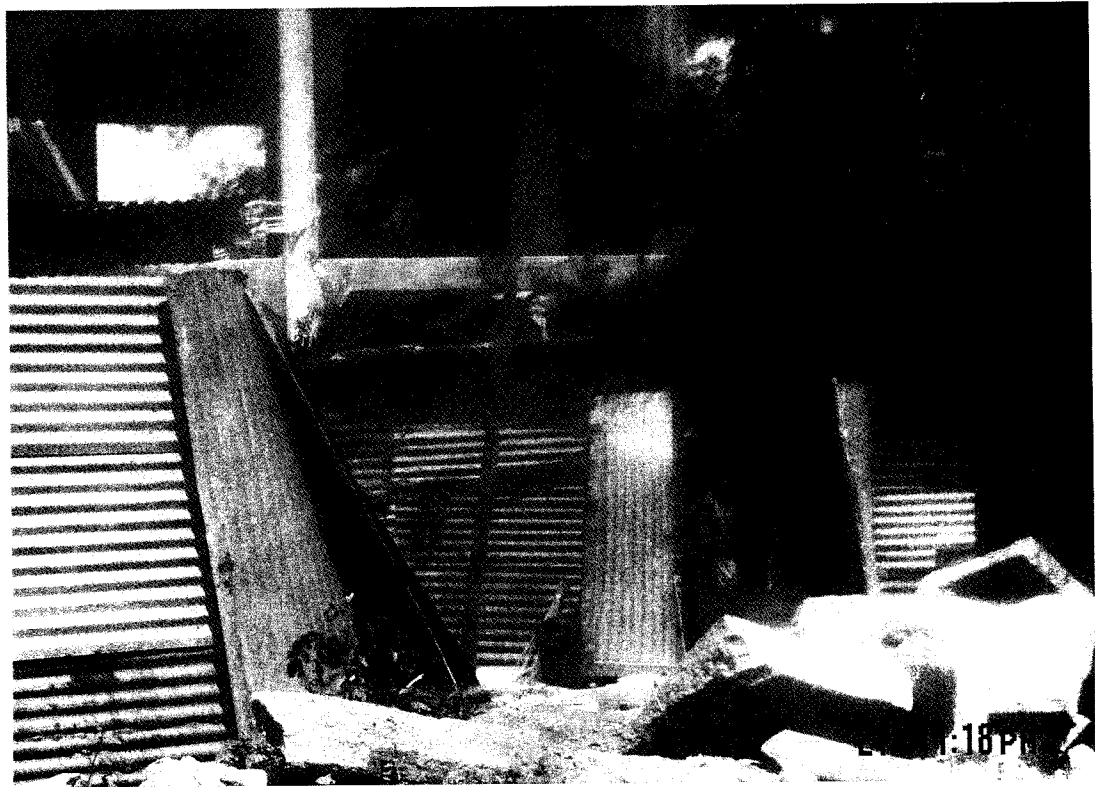
The construction started in March 2005 and was scheduled to be completed by 2011. Deccan Herald reader Dinesh Baliga and his son Akhil, who were the first to witness the collapse, alerted the police control room.



days or at times of sickness or injury sustained during work. It further notes the lack of safety measures prevalent in the industry, a pronounced absence of crèches for the children of women workers at most sites, lack of clean drinking water, absence of proper washing and bathing facilities, latrines and urinals or canteens and hardly any provision of medical facilities. The picture portrayed in the study remains by and large uniform for the whole country with minor variations in certain pockets.

A man cannot stand to full height in a hut and space is hardly sufficient for one string cot, a fireplace and few utensils. Children are being reared in such unhygienic environments. Where facilities like schools, hospitals, etc. are available around the work sites, migrant workers are unable to take advantage of such facilities.

While the absence of any security benefits, such as gratuity, bonus, provident fund, etc., is most pronounced in this sector all over the country, often minimum welfare facilities are also not present. For example, according to Section 17 of the Contract Labour Act, within fifteen days of the commencement of the employment of the contract labourer, contractors are obliged to provide rest rooms or other suitable alternate accommodation at every place where contract labour is required to halt at night in connection with the work and in which employment is likely to continue for three months or more. However, no site was found with any rest room facility. Rule 42 of the same Act also states that where work regarding employment of contract labour is likely to continue for six months and where 100 or more contract



The construction industry function in the open and the workers are thus exposed to scorching heat, rain, cold, dust and hazardous materials. They and their family live in the huts or under canvas, exposed to hazardous conditions. On the work site, they live in temporary shelter, which lack toilet facilities and there is no access of drinking water (Report of NCL, 2002, page 101). This is particularly true for the seasonal migrant workers in the construction sector of the city not having a permanent place own or rented in the city for shelter. These migrant workers come to the city only during the peak construction season and go back to their villages during the lean season.

Though about 95 percent of the sample male workers live in ill-ventilated house. All the workers in our sample are now concerned about the increasing menace of flies, mosquitoes and foul odour. While collecting the samples it was noticed that construction workers and forced to stay in temporary sheds and to pull on the work without raise for better living conditions. The workers visit government as well as private hospitals and also to private medical practitioner whenever they or their family members require medical attentions. There were also some who take help from a pharmacist. Among the 124 male workers who have children in their home 80 workers had reported that they have vaccinated their children from diseases. Among the 26 women workers, who have children below 5 years in their home, nine had reported that they had vaccinated their children. It was found that cough and diarrhea are the most common diseases suffered by the children of construction workers.

item along with cereal that is consumed regularly by the families of women workers.

Table-37 Food and Nutrition Intake of the construction workers

	Milk products		Pulses		Vegetable		Animal protein	
	Male skilled	Women workers	Male skilled	Women workers	Male skilled workers	Women workers	Male skilled	Women workers
Daily	58	0	79	0	125	39	-	0
Weekly	31	10	72	5	41	1	98	10
Occasionally	62	30	15	35	-	-	66	30
Never	15	0	-	0	-	-	2	-
Total	166	40	166	40	166	40	166	40

Generally the workers work for eight hours a day. Those who work on work rate basis generally work for more than the stipulated time. Altogether 155 male workers reported that they get rest of one hour in between their work. This is the accepted norm but rest of the workers in the sample reported that they get half an hour as rest period. The workers enjoy very minimum facilities at their work place. Very few had reported that there is canteen facility at their workplace. No one reported that there is provision of crèche at the working place. However, majority of the workers reported that there are facilities of drinking water and toilet at their workplace. About 60 per cent workers reported that there

is facility of first aid. Women workers on the other hand said that they work 9-10 hours a day with rest hours of half and hour to one hour in between. However, in workplaces they find virtually no provisions for drinking water and more particularly toilet facilities.

Table-38 -Working Conditions

Work for	Male skilled workers	Women workers
Below 8 hours	15	-
8 hours	130	7
8-10 hours	21	33
Canteen facilities	Yes-5, No- 161	-
Creche	Nil	-
Toilet	Yes-148, No-18	14
First Aid	Yes-99, No- 18	2
Drinking water	Yes-133, No-33	14

#### Employment Relations

Altogether 111 workers male workers reported that the employer generally discuss the construction related matter with them while the rest reported that the employer simply instruct them. The builders say interactions with the workers have some sense if they are reasonably skilled. To them skilled means the workers are capable of reading the drawings made by the architects and structural engineers and act accordingly. Such skilled workers sometimes take independent decisions in the construction process and the builders appreciate such moves. It was reported that for structural work the workers could do most of the work according to the structural design. But when the question of exterior or interior design comes, according to the builders the workers needs to be guided in every step by the architects or by the engineers.

The real test of a workers skill is reflected in such activities. Apart from such job related interactions with the workers, there is no other interaction between the workers and employers. Just two workers from the sample reported that they had ever received incentives from their employer. Some reported that it is possible to get loans from their employer. However, this is adjusted with wage later. In some cases to meet contingency expenditure and to meet expenditure of marriages some workers take loan from contractors.

A high degree of risk and danger is involved in this work. The work proceeds in most dangerous situations under sun, cold, heat, rain, dust, etc. The magnitude of accidents and occupational diseases associated with this work is appallingly high and complex. It is because most of the operations are labour-intensive with the presence of inadequate safety measures, low quality of materials used, non-identification and non-recognition of risky actions, non-analysis of accidents and lack of training of workers on safety.

Workers are exploited because they are socially backward, unorganized, uninformed and poor. Moreover their work is also characterized by its casual nature, temporary relationship between employers and employees, lack of basic amenities and inadequacy of welfare facilities. The extent of unionization in the construction industry has been very low due to migratory and seasonal nature of workers, scattered location of work sites. The rate of total accidents in this sector is four to five time than that of manufacturing sector. <sup>171</sup>

Despite the regulations for providing amenities to the construction workers under different legislations, the fact remains that the construction work force are forced to sail in the hard conditions due to the lack of vigil on the part of the labour enforcement machinery.

### **(VII) IMPACT OF TRADE UNION ON THE CONSTRUCTION WORK FORCE**

One of the major issues in the construction sector is that apart from the wages received do the workers have any other security. Workers in this sector are often prone to accidents and casualties and in such issues arises who take the responsibilities of their families. Apart from this do the workers in this sector receive any social security benefits? Are there any organizations helping the workers in times of their needs or advocate for their rights.

Like many other unorganized sectors, trade unionism is yet to make inroad in the construction sector. The study could locate one union of construction workers in the Guwahati city. The union 'The All Assam Nirman Sramik Union' registered in 2002 is affiliated to CITU. This reportedly has few branches in the city but found to be dormant except the main office. For the past two years the trade union activists are trying address the plight of the workers in the city. But their membership base is inadequate to initiate a massive step towards assurance of workers' rights. They have started membership drive since 2003 and that year 600 members were registered with the union. Some workers from the minority community are now taking up the membership to get some kind of protection particularly against the non-

payment of the wages by the contractors. The union is now receiving few such cases and trying to recover the dues from the builders and contractors. However, the problem is that there are layers and layers of contractors in the construction business and the poor and ignorant workers are not aware by whom they are actually employed. In such cases it is difficult for the union to initiate any move for the workers. The union feels that at present mafia raj prevails in the construction sector. The workers feel that if they get unionized, they would likely lose the opportunity to get employed as the recruiters do not want to face the troubles of unionism. Apart from this there are abundant labour supplies in the market and it is possible to engage the workers at a nominal rate. Though the skilled workers covered in the sample revealed that they get somewhat reasonable wage rate the plight of the unskilled is pitiable. The workers rather than using the opportunity to earn that much amount agrees to work may be said that the unskilled constitute about 80 percent of the workforce in the sector. One finds evidence of abundant labour supply in many points of Guwahati city in the morning hours of 6-8 where innumerable workers assemble waiting for jobs. The contractors come to such sites and take truckload of workers to the working sites at minimum bargaining rate. This reveals the inflow of the huge number of people to the city in search of jobs from rural areas and the construction sector is considered to be the sector where workers can easily enter to earn their live hood. In such a general situation it is difficult to bargain for better wages and to assure workers' right.

In the sample of 166 skilled male workers revealed that just 17 workers were members of some workers' unions. Most of the workers (160 in total) reported that there is no efficacy of trade union in the construction sector in the city. As most of the jobs are intermittent in nature, workers do not get chance to unite. Apart from this there are abundant supplies of labour in the sector. Between the two ethnic groups dominating the sector in the city of Guwahati one particular group is always prepared to work at minimum bargainable rate rather than to lose the opportunity to earn something in a particular day. The logic is simple. Missing work even for a single day means one has to erode the minimal savings he or she has. So a worker from this particular community is prepared to work even at a lower rate on a particular day. In a competing situation this act at least do not dig into his or her coffer. There are some prevailing wage rates for the different types of works at the market. No women workers in our sample reported that they have ever heard of any workers activism, action of union and government, on protection and revision of wages in this sector for their better livelihood.

There are **no instances** that workers had **participated in some kind of strikes** in the city. In the city only three male workers and three women workers in our sample reported that they ever had conflict with their employers. This is one of the major problems women workers face in the work sites. It was observed that in the big construction houses there was no direct communication between the employer and the

workers and all the labour related issues and problems are generally handled by the agents or by the contractors.<sup>172.</sup>

Trade Unionism in construction labour market of Guwahati City,

Responses	Member of trade union	Attends union meeting	Efficacy of trade union	Ever participated in protests
Yes	17	10	6	3
No	149	7	160	160
Total sample	166	17	166	166

The meaning of dadan is 'advance payment' and the person who is paid in advance and drafted through an intermediary is called a dadan labourer. Dadan labour is a type of migrant labour. Dadan labourers are recruited and drafted to other states normally through agents and khatadars to work for a period ranging from 3 to 6 months during slack period in agriculture for which they are paid in advance. They are not at all organized; only one union having 150 members exists in the face of 2.5 lakhs of people migrating to other states each year. Since they are scattered all over the state and their workplaces are in different states. The unions find it **difficult to organize them**. They are poor, illiterate and mostly unaware of their rights and the possibility of organizing them into unions. Since inter-states migration is a national problem, it requires the co-operation of the Governments of both the home state and the host state to jointly handle the issues. The unions have also a role to extend their organization to cover these poor and exploited labourers. Finally, there should be mutual co-operation between the Government,

trade unions and voluntary organizations to educate, motivate and mobilize these workers for their uplift. Owing to lack of organization among themselves and the difficulties in implementing the legislative measures, they suffer from innumerable problems including less payment of wages and compensation resulting in disablement or death, physical torture and denial of minimum welfare facilities at the workplace etc.

#### Characteristics of Dadan labour

Dadan labourers are recruited and drafted normally through agents and Khatadars to work for a period ranging from three to six months commencing after the month of October and ending by July next which is the stack period in agriculture during which the workers do not get work at home. They are recruited mostly from Ganjam and Puri districts and also from Balasore, Cuttack, Mayurbhanj, Bolangir, Phubani and Kalahandi districts. According to the information available so far, they have been recruited to work in different projects and works in Assam, Bihar, Andhra Pradesh, Uttar Pradesh, Gujrat, Punjab, Madhya Pradesh, Karnataka, Maharashtra, Nagaland and Meghalaya

Some dadan labourers are also drafted to countries such as Nepal, Bhutan, Iraq, Iran etc. Normally local agents are engaged by the contractors of other States for recruitment and drafting of these workers. The local agents generally pay some advance at rates ranging from Rs. 50 to Rs.500 to the labourers and thereafter draft them to other States to work for periods ranging from three to six months promising those decent wages and other fringe benefits, free food, cost of transport to and

fro, medical facilities, good accommodation, clothing etc. But such commitments are in many cases not normally honored and the concerned labourers are harassed and exploited.

The plight of dadan labour was highlighted in the press when the unscrupulous agents and sardars exploited and harassed them. There were also cases of death, and serious injuries without payment of any compensation. Torture and harassment culminated in addition to non-payment or less payment of wages and other legal dues. This led to the enactment of Orissa Dadan Labour (Control and Regulation) Act, 1975, which came into force from January 1, 1976. The main object of the Act was to regulate the recruitment of labourers from Orissa to work outside the State and regulate their conditions of service including wages. The agent under the Act means a person who recruits dadan labourers on behalf of an employer for any work carried on outside Orissa and includes a contractor, Khatadar, sub-contractor, Sardar and the like who make such recruitment. On the other hand, dadan labour has been defined under the Act as a person recruited on the basis of a contract (explicitly or implicitly) from Orissa for doing any skilled, semi skilled or unskilled manual work outside the State.

But the Act remained silent about the coverage of the principal employers or contractors from outside the State who really engage the dadan labour and under whom the contractors execute work. Ultimately the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 was enacted by the Parliament and the State rules were adopted in November 1980.

Rural workmen of the district are not directly recruited by the outside agents/contractors in all the cases. At the first stage, the village leaders who are mostly seasoned migrant workmen tempt the youth with high hopes and fortunes and take them either to nearby railway stations or to a place very close to the border just outside the State after which the second phase of the final recruitment of workmen takes place.

There are bottlenecks to enforce the law in the face of inadequate enforcement machinery, communication gap, inadequate data about migration, and lack of organization, lack of awareness and socio-economic backwardness and above all lacuna in the law. **Clandestine movement of migrant workmen and absence of State owned drafting agency and make the issue cumbersome.**

Since the dadan labourers work outside the State, the Government of the State from which they are drafted is not in a favorable position to take any action against the agents or contractors for violating the provisions of the Act. Only in reported cases, the State Government takes up the matter with the respective Governments of the States where the labourers work for necessary action. Further, the agents are drafting more labourers outside than the number for which they are seeking license from the Government. Because of this the Government does not have a clear idea about the number of labourers being drafted outside the State. Only in cases of torture and harassment, the friends and family members of the labourers lodge complaints with the State Labour Commissioner. Only after that the Labour Department initiates some action.

Table-39 Drafting of dadan Labour

Year	Number of Licensed Contractors	Total Workmen Drafted
1976	122	45,830
1980	123	30,693
1984	67	11,500
1987	110	1,600
1990	58	2,035
1991	73	2,373
1992	76	2,598
1993	109	5,487
1994	181	5,678

After the implementation of the Inter-State Migrant Workmen Act, 1979, the number of agents seeking license and the workmen for which license granted was reduced to a considerable extent because of the high security fees to be deposited before the Government. Even after the Government reduced the security fees considerably, very few agents have come forward for registration.

Table- 40 Number of complaints Received and Workmen Repatriated

Year	Number of Prosecutions Filed.	Number of Officers Sent on Deputation	Number of Workers Repatriated
1990	170	4	52
1991	75	5	31
1992	137	3	28
1993	174	2	36
1994	97	-	-

Out of 653 prosecutions filed so far (between 1990 and 1994), only a few have been disposed of. Most of the agents prefer to pay fines of smaller amount if convicted than to deposit a huge amount with the Government for making license as required under the Act. Migration of rural workers of the districts has its origin in social and economic hazards. In the social front, the old and the disabled persons of the family are left in isolation and migration females causes touchy problems including stray cases of sexual harassment. Besides, the future of children is spoiled without education.

To get rid of the atrocities of village money lenders, these migrant labourers, being allured by the advance payment, virtually become bonded labourers and are exposed to all kinds of exploitation.

In Orissa, only 0.79 per cent of workers are organized into unions by 1991. Only 1.09 per cent of trade union members are in the unorganized sector as against 10 per cent in the country. For dadan labourers, there is only one union, i.e. Orissa State Dadan Sramika Sangha, affiliated to CITU and functioning in the State since 1992 with a meager membership of 150. Though it is a small and new union of dadan labour, it had taken some steps to ameliorate the conditions of dadan labour by visiting many States where its members were working and rescued some of them from the clutches of unscrupulous employers. Because of the nature of work in other States the workers are not able to organize into unions. The dadan labourers also do not inform the local authority or trade union leaders before being drafted to other States, mainly due to poor

economic conditions and the fear of not getting jobs. They are mostly afraid of the local agents/contractors who are influential persons in the area. The trade union leaders in the State are not paying their attention to dadan labour because of their inability to pay membership fees. Very few dadan labourers are aware of the possibility of forming into associations.

Twenty five trade union leaders were interviewed regarding their role towards organizing the dadan labour and the problems in doing so. The views expressed by the leaders are as follows:

- (a) CITU: The trade union leaders are in favour of the formation of 'Orissa Dadan Labour Organization' by the Government with membership from the Government and unions. All the dadan labourers are required to register themselves to be eligible for being drafted. This would help in organizing them after getting their address. There should be efforts for awareness campaigns among them so that they would be aware of their rights and can protect themselves.
- (b) INTUC: The leaders opined in favour of formation of a Government sponsored drafting agency so that the number and the address would be available for the purpose of formation of unions. They also suggested the creation of Employment Guarantee Schemes for dadan labourers by the Government so that the incidence of the problem would be reduced.
- (c) HMS: The leaders strongly suggested amendment of the present law to incorporate the provisions regarding controlling of their

conditions of service by the home State from which they are drafted. The unions should pay attention to this neglected labour force.

(d)AITUC: The leaders recommended the possibility of formation of unions in the host State where the work takes place under the principal employer. The local trade unions should follow up the matter from the home State in this regard.

In spite of the fact that a large number of dadan labourers are being drafted outside the State each year, the unions are not paying attention to organizing these labourers. This is because unlike the industrial workers, the dadan labourers, due to their poor economic conditions, are not in a position to pay membership fees. Again, unlike the industrial workers, they are not confined to a particular place; rather they are scattered throughout the State. Their place of work is also scattered outside the State of Orissa. So it becomes difficult for the unions to organize them.

The object of State Labour Institute, Orissa is to initiate and promote professional activities in the field of labour and related matters, and undertake empirical and action oriented research, educational and training programmes, orientation and refresher courses including publication and information services. Through these activities, the Institute seeks to provide an integrated approach to continuing education in labour. The Institute has undertaken a number of studies on dadan labour. In order to make the dadan labourers aware of their rights and responsibilities under various labour laws, the Labour Directorate started a notable venture to go to them in most interior parts of the State and

enlighten them. A number of training programmes have been conducted for these migrant labourers in various parts of the State during 1993-95. Training is imparted on various labour legislations affecting these migrant workmen like the Inter-State Migrant Workmen Act, Minimum Wages Act, Payment of Wages Act, Workmen's Compensation Act, etc. They are also being taught the benefits of organizing into unions. <sup>173</sup>

The Government of Kerala issued with a Gazette notification on 19<sup>th</sup> May 1981 and The Kerala head load workers Act. 1978 came into force in the whole State. Once an area is notified within 15 days every head load worker has to submit, in the prescribed form, an application to the Assistant Labour Officer (the Competent Authority as per the Act) to grant registration. On verification, if found eligible, registration will be granted to the worker and such registered workers are only eligible to work in the notified areas. Similarly every employer in the area requiring the services of head load workers is also required to register with the administering agency of the scheme (which will be known as the Local Committee).

A schedule of wages will be fixed by a committee consisting of the representatives of employers, employees and members of the Local Committee. The rate will be revised periodically, every two years. An employer shall pay to any head load worker employed by him such prescribed wages. The rates are valid for work from 7 AM to 7 PM and for the next 12 hours the wages are one and a half times the prescribed wage.

For the implementation of the scheme, the Act proposed setting up of a Head load Workers Welfare Board at the apex level and a Local Committee at the local level. The Board shall supervise and co-ordinate the activities of the local Committees. The Board arrange and regulate employment to such headload workers and pay them wages. The Act also conceives other machineries for dispute settlement, revenue recovery, etc. To administer the scheme and to plan welfare schemes for workers a levy will be collected from the employers by the Local Committee at the rate of 30 per cent of the wage payable by the employer to the headload workers. Each Local Committee will have to transfer 2 per cent of the total levy amount to the Boards. Thus the scheme's administration is contemplated to be self-financed without any Government commitment. For each area Local Committee is constituted and at the apex level the Headloads Workers Welfare Board has also been formed. A systematic arrangement for organizing work is being evolved. A Local Committee area is divided into various pools. These pools correspond to the work areas monopolized by a set of head load workers before the implementation of the scheme. All of them were issued work cards on registration by the Committee and permanently deployed in the same area. Works are planned at the pool office functioning either at the lobby of a building, a small shed or a room hired by the labour belonging to the pool. A pool leader will be selected on rotation basis and labour reports at the pool office at 9 A.M. The pool leader makes available the workers required by the employers. Works are allotted daily to each laborer in such a way as to ensure that

there is equality in monthly earnings among the members of a pool corresponding to their working days. On the completion of a work a slip is issued by the employer to each laborer indicating the amount of wages payable and the laborer hands over the same to the pool leader who in turn delivers the slip at the Local Committee office the very same day. The employers also send a copy of the slip to the Local Committee Office. As per the stipulation on a weekly basis employers have to fully settle the wages and maintain an advance amount equivalent to a week's wage with the Local Committee. On the nineteenth day of every month 50 per cent of the fortnightly earned wage is advanced to the labourers and the monthly wage settlement is effected on the fourth or fifth day of every month. Thus at the field level systematic arrangement is being evolved to organize the work and make payments. **The role of the local committee and the Head Load Workers Welfare Board is significant in regulating the employment and disbursement of wages. This arrangement ensures continuity of employment and regular payment of wages there by the human resource is utilized in a rational manner by the state besides relieving the stress of the labour force.**<sup>174</sup>

It needs to be noticed that undoubtedly the role of Trade union in protecting the rights are appreciable and its continued effort in co-existent with the working of the Industry. The Trade Union membership is gradually increasing with the increase of work force participation in trade union activities. With the passage of time the trade union activities are directed towards the unorganized work force and the efforts of the

trade union in improving the conditions of construction workers in particular is getting strengthened with the growth of the construction industry. The numeric of the Trade Union membership amongst the major trade union of the country is reflected herein.

#### Trade Union Verification: All about Numbers

The Ministry of Labour, Government of India (GoI), recognizes Central Trade Union Organisations (CTUOs) as those trade union organizations, the affiliates of which are spread over at least four states and in four industries and have 5 lakh members. Once recognized, GoI gives them representation on various international (including ILO) and national conferences, tripartite bodies, committees, development councils, etc. <sup>175</sup>

To make a rough estimate, the 1991 Census put the total number of workers at 314,131,370 and the corresponding figure for 2001 Census was 402,234,724, showing an annual rate of growth in the workforce at 2.47 per cent. The CLC 2002 verification data of CTUOs show that unionization was happening much faster than the rate of growth of the workforce. The per cent of organized workers to the total workers did not increase; it remained largely stagnant at 7 per cent. <sup>176</sup>

Table-41 Data on membership of C.T.U.Os

Sl. No	Name of the Trade Union.	Membership strength.
1	BMS	6215797
2	INTUC	3892011
3	IIMS	3342213
4	CITU	3222532
5	AITUC	2677979
6	UTUC (LS)	1368535
7	SEWA	606935
8	UTUC	383946
9	TUCC	732760
10	AICCTU	639962
11	LPF	611506
12	Others	1214725
13	Total	24601589

Table-42 Industry-wise increase in CTUO membership 1989 and 2002

Sl.No	Industry Groups	CTU Membership 1989	CTU Membership 2002	Increase in Membership during 1989 & 2002	Annual Rate of Growth (per cent)
1	Agriculture & allied activities	2,377,280	8,342,683	5,965,408	9.66
2	Mining & quarrying	1,180,928	1,524,779	343,851	1.97
3.	Manufacturing	3,438,710	5,289,219	1,850,509	3.31
4	Electricity, gas & water supply	478,742	842,257	363,515	4.35
5	<b>Construction</b>	<b>441,775</b>	<b>1,522.770</b>	<b>1,080,995</b>	<b>9.52</b>
6	Trade, hotels, restaurants & repair services	59,707	86,616	26,909	2.86
7	Transportation, storage & communication	2,918,411	3,854,678	936,267	2.14
8	Finance, insurance, real estate & business services	131,873	1,39,049	7,176	0.41
9	Social, community & personal services	959,235	1,990,164	1,030,929	5.61

However, the rate of increase has not been uniform across all industry groups. It was followed by Construction at 9.52 per cent. The data reveals that the impact of Trade Union in enrolling the Construction workers as members of various Trade Unions is impressive but in reality their involvement in redressing the grievances of construction workers is minimal when compared to the total membership on board.

The Supreme Court has expressed his serious concern about non implementation of the Construciton Workers Act, 1996. <sup>177</sup> The National Campaign Committee for Central Legislation on Construction Labour construction workers federation has filed writ petition before the Supreme Court <sup>178</sup> wherein it is alleged that many of the provisions of the enactment are not put in practice and the respective authorities have not complied with the statutory provisions. All the state Governments and Union territories are impleaded as parties in this writ petition. The Act is intended to benefit the unorganized workers in the construction sector.

The Supreme Court in its interim order dated: 13.1.2009 observed we direct the Chief Secretary of the respective States and Secretary (Labour) of each States and the Union Territories to take timely steps as per the provisions of the Act, if not already done. If any of the State Government has not done anything pursuant to the Act, urgent steps are to be taken so that the benefits of this legislation shall not go waste. Otherwise the unorganized workers of the construction sector will be denied the benefit of the Acts.

The highly labour intensive nature makes construction one of the largest sources of employment and Construction is the second largest Industry in India, daily employing about 2,00, 00,000 workers in its different activities or associated with it. Construction is also a highly accident-prone industry. The rate of fatality in this industry is very high in comparison with the other industries. **It is estimated that more than 10 million workers receive injuries every year throughout the world.**

**Compared with the manufacturing sector which experiences between 60 to 80 deaths per 1000, the Construction sector witnesses about 160 to 250 deaths per 1000.** There is an increasing need for adequate investment in working conditions for ensuring greatest benefit for workers, mainly in terms of job security, safety, fair conditions and skill development. There is a poor record of the industry on occupational safety and health. The reasons being that large numbers of construction workers are migratory, socially backward and illiterate with low bargaining power. In Kerala the Board is not registering migrant construction workers from adjacent States nor has it been able to collect cess from Central Government construction sites. Tamil Nadu has adopted a scheme under the Tamil Nadu Manual Workers Act instead of the said Main Act but does not have any provisions for safety and health and cess collected is 0.3%, which is less than the 1-2% of the Main Act.

The Union Government is the largest employer as public construction like dams, bridges, roads, and public buildings make up the major share of expenditure in this industry. The Central Government has been clearly escaping the Central Law since its enactment. Considering that 92% of the work force is in the unorganized sector and such workers and their families constitute the bulk of the population the Act provides as a system of universal social security. The Building and other construction workers are one of the most numerous and vulnerable segments of the unorganized labour in India. The building and other construction works are characterized by their inherent risk to the life and limb of the workers. The work is also characterized by its casual nature, temporary

TIMES OF INDIA 6/12/06

## SC: where is workers' Rs 940 crore?

Dhananjay Mahapatra | TNN

**New Delhi:** The state governments have collected a whopping Rs 940 crore as cess from builders but are sitting tight on it despite a statutory requirement to spend the money on welfare of workers, the Supreme Court learnt on Friday much to its anguish.

A majority of the states have not collected a penny from builders under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, not to mention the breach of mandatory provision under the law requiring mandatory registration of these daily labourers, senior advocate Colin Gonsalves informed the SC.

Presenting a state-wise chart, Gonsalves said Delhi had collected Rs 140 crore but had spent nothing though more than one lakh construction workers were engaged in various mega projects,

including those for Commonwealth Games and the Metro rail.

A Bench comprising Chief Justice K G Balakrishnan and Justice P. Sathasivam asked the states to provide within four weeks an up-to-date status report on implementation of the 1996 law and spending on the welfare schemes for workers and posted hearing on the PIL by NGO 'National Campaign Committee for Central Legislation on Construction Labour' (NCC-CL) in January. Giving information about other states, Gonsalves said only Madhya Pradesh had done some meaningful implementation of the Act by collecting Rs 173.9 crore and disbursing Rs 8.7 crore for welfare of 16,812 registered workers. However, West Bengal has so far collected only Rs 2.5 crore and disbursed only Rs 2 lakh to the beneficiaries. Tamil Nadu has collected Rs 246 crore. Gujarat has collected Rs 91 crore but has not spent anything.

relationship between employer and employee, uncertain working hours, lack of basic amenities and inadequacy of welfare facilities. Though the Act and the rules had been enacted by the Central Government in 1996, only two States, Kerala and Tamil Nadu have enacted near competent State legislations. Kerala implemented the Central Act in place of its State Act. Under the State Act only workers from the State of Kerala were registered. But now the Central Act being implemented, the State is continuing with the earlier practice of registering workers from Kerala and denying the benefits to workers from other States whereas the workers from other States should have been registered under the Central Act and Rules.

The States of Tamil Nadu has adopted a scheme under the Tamil Nadu Manual Workers Act 1982 instead of the said Main Act. The Main Act applies only to establishments which employed or had employed on any day of the proceeding twelve months ten or more building workers in any building and other construction work, but Section 1 (4) of the Tamil Nadu Scheme has **no such employment limit and applies to all establishments** where the construction workers are employed. Whereas the Tamil Nadu Act, has provisions for regulation of employment, the said Central Act does not have such provisions for regulation of employment, the said Central Act does not have such provisions. While the Cess under the Central Cess Act is 1% (up to a maximum of 2%) of the cost of the project, it is only 0.3% under the Tamil Nadu Scheme, which is a major variation of the State from the Main Act. Section 16 of the provision seeks for contribution to be made

by the worker to the fund, the Tamil Nadu Scheme as it operates now does not call for any contribution to be made by or collected from the workers. It is submitted that there is no uniformity in the Acts and rules framed by different States with that of other States/Union Territories.

In Kerala Cess is being collected by the Labour Department, while under the law; cess is to be collected by the Local Authority (Sec 3 and Rule 4 & 5 of Cess Act). Since the Labour Department cannot utilize the amount and the amount is to be utilized by the Board they are not interested in collecting the cess and the labour Department is overburdened. The state government had enacted the Kerala Construction Workers' Welfare Fund Act, 1989 and transferred it to the Kerala.

The Govt of Tamil Nadu informed in 1999 that the State Government is implementing Tamil Nadu Construction Workers Welfare Scheme 1994 framed under the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Service) Act, 1982. According to them, the scheme is more beneficial than the Central Act and has decided to continue the scheme, which is already in operation and the matter till be reviewed after two years. On detailed examination of the Scheme being implemented under State Act. It is observed that though the scheme provides welfare measures to the construction workers but it does not provide health and safety measures to the workers as available under the Central Act. .

The collection of Cess by labour department instead of the local Authority is contrary to the provision under the Cess Act. It is submitted

that the authority for the collection of cess should be with the construction project sanctioning authority to whom the construction projects and the construction estimates are submitted for approvals. Otherwise the labour department would not be able to track all the construction projects sanctioned and approved by the concerned authorities for collection of cess.

The petitioner states that in a study prepared by the Corporate Safety Section of the National Thermal Power Corporation Ltd, New Delhi with the factors underlying injuries/ accidents in Construction Industry with special reference to NTPC, it was found that there was not statistics of accidents or safety management systems in construction activities, and the same are not maintained by contractors or owners in absence of any legislative requirements and even otherwise it is not maintained either due to the reason that the contractors felt it undesirable, or fear of police investigations and other administrative problem. The above study covered six NTPC projects employing more than 45,000 workers. The findings of the above study states that unmarried workers in the wage group of Rs 21-30 per day, and unskilled workers, in the age group of 16-25 years were more susceptible to injuries. Further workers, particularly employed by petty contractors, either illiterate or studied up to 6-10 class and having less than 3 months experience, were found to have higher injuries per unit employment.

**The Plethora of labour laws that regulate the wage, welfare, health, safety and working conditions of labour at construction sites is very confusing. There is also the multicplicity of law enforcement**

**agencies. At a typical construction site, the contractor is expected to organizational capabilities to handle so many laws, and two dozen or more government inspectorates. The net result is that the cost of compliance of laws is more than the cost of its violation.** The law recognizes the client as the principal employer and holds him responsible for the safety of persons and structures under its jurisdiction. However, the law does not make any specific stipulations as to how the principal employer will discharge its obligations with regard to safety. The national governments and the I.L.O. have been the prime movers in conducting surveys and generating data in Construction Industry in many countries of the world. Results of some of the recent researchers conducted by the International Labour Organization and a few national governments may be cited here in.

- **The accident rate in construction is 4 to 5 times higher than that of the manufacturing sector on the global scale.**
- **There is an increase in the number of work-related diseases associated with construction all over the world.**
- **After initial employment, there is a dramatic increase in accident frequency over the following 6-8 months in Construction Industry.**

Construction work is often seasonal where migratory labour is employed on piece rate basis to perform the assigned task. In view of the tenure of work and methods of wage payment, the primary consideration for the labour is to earn as much as possible, even at great risks and expose themselves to hazards in order to earn more. A majority of the construction workers do not regard their work as a vocation, and further the availability of a number of rural labourers who pick up jobs on construction sites are returned to their villages when the

work is over or suspended. The plight of the construction workers working in different states in the absence of any social security net and pulling on their lives in the midst of despair and uncertainty. The effort of the Welfare Board established under the Construction Workers Act is far from satisfactory. Due to the inherent impediments prevalent construction industry, thrust put forth by welfare board in ameliorating the working conditions of construction work force is subjected to the critics and is often resulting in abortive steps. Further minimum relief reaches the hands of the work force despite the fact that financial strength of the welfare board much strong enough to meet the liability. Despite the odd in the trade union participation for improving the working conditions of the construction workers yet there are occasions where trade union expressed concern for these construction workers.

# CWFI leader seeks severe action against erring builders

Many a time, they get away with just paying fine, says Veeraswamy



**FOR FIRM ACTION:** CWFI members raising slogans during the flag-hoisting at the first Bangalore district convention of the federation in Bangalore on Sunday. — PHOTO: V. SHEENIVASA MURTHY

Staff Reporter

**BANGALORE:** Builders and contractors get away with not adhering to safety standards and are not prosecuted severely for the lives lost in accidents. N. Veeraswamy, State general secretary of the Construction Workers' Federation of India (CWFI), has said.

Speaking at the first Bangalore district convention of CWFI here on Sunday, Mr. Veeraswamy said the Building and Construction Workers' Act, 1996, and the Karnataka's rules of 2006 (based on this Act) were not being enforced by the State to bring the builders to book.

Referring to the recent in-

cidents of building collapses in Bangalore, he said that owners and builders all too frequently get away with just paying fine. "Builders who violate safety norms should be severely punished for the casualties," he said.

**Welfare board**

Mr. Veeraswamy said that workers should also be made aware of the welfare benefits that they could avail from the Karnataka State Construction Workers' Welfare Board, which was established in 2006. There are 12 benefits, including maternity leave, compensation for accident-related disability, and provisions for children's education. But most workers just

do not know. He estimated that the 12 lakh construction workers in Karnataka, only 68,000 had registered with the board. Trade unions also had the responsibility of creating awareness among the workers, he said.

K.N. Umesh, district general secretary of the Centre for Indian Trade Unions (CITU), demanded that the welfare board raise the pension from Rs. 300 to Rs. 1,000 in view of the rising prices.

All workers aged 65 and above who have put in five years in the industry are eligible for pension from the board.

He also said that the State should ensure that builders adhered to safety norms.

The manpower crunch in the Labour Department is preventing all the construction sites from being inspected, he said.

**Migrant Workers Act**

Mr. Umesh said the Migrant Workers Act must be implemented at the earliest so that all workers were ensured basic living conditions. He said that 70 per cent of construction workers in Bangalore come from outside the State.

He said the Government should also ensure that all construction workers were given age certificates, which the welfare board requires from all those who wanted to earn.