

# Socio-Economic Status of Unorganized Labourers in Construction Sector in Gujarat



## Submitted to

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## Submitted by



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# CONTENTS

*Acknowledgements*

*Executive Summary*

1. Introduction .....	13
2. Objectives .....	14
3. Methodology .....	14
4. Contracting System in the Construction Sector .....	17
5. Review of Socio Economic Conditions of Construction Workers.....	18
5.1 Who Migrates and Why.....	19
5.2 Migration Patterns .....	20
5.3 Employment and Working Conditions .....	21
5.4 Access to Basic Services and Living Conditions .....	27
5.5 Gender Dimension .....	30
5.6 Collectivization of Labour .....	31
6. Policy and Legal Frameworks .....	34
6.1 Existing Laws and Status of Implementation.....	35
7. Recommendations .....	52
7.1 Policy Recommendations .....	53
7.2 Recommendations for Implementation of Provisions.....	57
8. Elements of a Model Contract.....	60
8.1 Welfare Entitlement .....	62
8.2 Social Security Entitlements.....	63
9. Conclusion .....	64
10. References.....	66

## List of Figures

Figure 1: Departments Interviewed .....	15
Figure 2: Institutions Visited.....	16
Figure 3: Construction Sector Contracting System .....	17
Figure 4: Condition of Construction Workers .....	18
Figure 5: Maps Showing Inter and Intra State Migration.....	19
Figure 6: The Case of an Inter-State Migrant Worker .....	23
Figure 7: The Case of an Intra-State Migrant Worker .....	25
Figure 8: Details of an Official Scheme.....	29
Figure 9: Responsibilities of Wings in Labour Department.....	43
Figure 10: Facts of Establishments: Gujarat.....	43
Figure 11: A Quotation of a Worker.....	44
Figure 12: Overview of the BCWA .....	45
Figure 13: Overview of BCWWCA .....	47
Figure 14: Overview of the ISMWA.....	49
Figure 15: A Copy of Guarantee Letter .....	50
Figure 16: Overview of Legal Act .....	50
Figure 17: Recommendations for State Policy.....	53
Figure 18: Recommendations for National Policy .....	54
Figure 19: Best Practice to Access PDS.....	56
Figure 20: Implementation Recommendations .....	58
Figure 21: Elements of the Model Contract.....	61

**List of Tables**

**Table 1: FGDs and Interviews with Stakeholders ..... 15**

**Table 2: Minimum Wages for Skilled and Unskilled Workers ..... 21**

**Table 3: Compilation of Companies Compliance with Acts..... 33**

**Table 4: Consolidation of Migrant Construction Labour Related Conventions..... 35**

**Table 5: Children Education Assistance..... 38**

**Table 6: Achievements of the Board as on 31<sup>st</sup> August, 2009 ..... 41**

**List of Annexures**

**Annexure 1: List of Research Questions**

**Annexure 2: List of Individuals Interviewed**

**Annexure 3: Details of Relevant Acts of the Migrant Construction Workers**

**Annexure 4: Case Studies of Construction Workers**

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## Abbreviations

BCWA	-	The Building and other Construction Workers Act
BCWWCA	-	The Building and other Construction Workers Welfare Cess Act
BPL	-	Below Poverty Line
CEO	-	Chief Executive Officer
CSR	-	Corporate Social Responsibility
DISH	-	Directorate of Industrial and Safety and Health
FGDs	-	Focused Group Discussions
GDP	-	Gross Domestic Product
GDs	-	Group Discussions
GoG	-	Government of Gujarat
Gol	-	Government of India
ILO	-	International Labor organization
ISMWA	-	The Legal Services Authorities Act
ISMWA	-	The Inter State Migrant Workmen Act
LC	-	Labour Commissioner
LSAA	-	The Legal Services Authorities Act.
NGOs	-	Non-Government Organization
NIOH	-	National Institute of Occupational and Health
NREGA	-	National Rural Employment Guarantee Act
PDS	-	Public Distribution Systems
RLC	-	Rural Labor Commissioner
RSBY	-	Rashtriya Swasthya Bima Yojana
SEWA	-	Self Employed Women's Association Ahmedabad
TB	-	Tuberculosis

# **Socio Economic Status of Unorganized Labourers in Construction Sector in Gujarat**

## **EXECUTIVE SUMMARY**

It is estimated that about 80 million persons migrate regularly between different states in India of which 40 million take up jobs in the construction industry. The construction industry occupies an important position in the nation's development plans and is the second largest contributor to the Gross Domestic Product (GDP) after the agricultural sector. Twelve lakh construction workers are engaged on 12,000 construction sites in Gujarat state alone. A decade ago, there were around 5 lakh construction workers in Gujarat state, of whom 50,000 workers were based in Ahmedabad city itself. Several studies, carried out in various parts of India, have documented the livelihood status of the migrant workers and mentioned several problems that they face when they migrate to the urban areas and work in the construction sector. It is imperative to understand why existing policies and legal frameworks do not work at the grassroot level and have failed to provide improved working conditions and sustainable livelihoods for the construction workers.

It is widely accepted that economic growth per se does not ensure development of any society, unless it is combined with human development. Human development refers to increased capabilities of people, who are marginalized and excluded from the mainstream of society, in order to enable them to access larger opportunities in life. The present study examines all the relevant factors of human development i.e access to basic requirements, state entitlements and resources of unorganized labourers who are a high-risk and marginalized group. Hence the Directorate of Human Development, Government of Gujarat mandated Sampark to conduct a research study on the “**Socio-economic status of unorganized labourers in construction sector**”. The objective of the study is to document the livelihood status of unorganized migrant construction workers employed in Gujarat, identify the gaps between the legal provisions and ground realities and suggest essential elements of a model contract that would protect the rights of construction workers in Gujarat.

The study used qualitative research methodology and collected data from primary and secondary sources. The data was collected through visits to construction sites, focused group discussions (FGDs), case studies involving workers in the construction sector and personal interviews with the key stakeholders. Visits were made to 12 on-going construction sites and 12 focused discussions were conducted with about 204 construction workers using

open ended research questions. Twenty six interviews were conducted with the officials from the departments of Road and Building, Labour, Social Welfare, Health & Family Welfare, and Women and Child Development; Building and other Construction Workers' Welfare Board. Twenty nine personal interviews were conducted with company contractors and representatives of unions, cooperatives and NGOs working with migrant construction workers. The secondary data was collected from documents from institutions such as the Gujarat Institute of Development Research, Mahatma Gandhi Labour Institute, Gujarat State Legal Services Authority, National Institute of Occupational and Health, Gujarat University, Indian Institute of Management Ahmedabad and also through web search.

The study results showed that there are three types of migrant construction workers: intra state, inter state and Ahmedabad based workers. Intra and inter state migrant workers migrate through local contractors (thekedars). Bargaining power of inter and intra state workers is lower than local Ahmedabad based workers. In the existing contracting system, the principal employer is supposed to register the establishments with the Labour Department. The principal employer hires the contractor; who in turn, hires sub contractors. The principal employer is legally bound to fulfill all the requirements of the Acts, where as the contractors and subcontractors who actually work with the workers, are not legally bound.

From the site visits, interviews and FGDs, the working and living conditions of the construction workers were assessed. While skilled labour gets paid the minimum wages, majority of the unskilled labour do not get the stipulated minimum wages. The workers work long hours of 12-14 hours without any weekly off which is the basic requirement mentioned under the Act. The workers work overtime, but do not get paid double the rate as is required under the Act. The contractors pay the workers their wages once a month, but also give them a weekly "kharcha" to meet their weekly expenses. This is then adjusted against the pay they receive at the end of the month. Safety measures are not followed seriously by the contractors and the workers at most sites. There is a lack of awareness among the workers about the importance of these safety measures and a sense of indifference among the contractors to provide safety equipment and enforce safety norms. For the workers involved in civil constructions the main occupational hazards are minor to major injuries due to accidents. Skin diseases and malaria are common, especially among those involved in the construction of water treatment plant and bridges on river banks.



Regarding the living conditions, all the workers have been provided with accommodation in labour colonies on or near the construction site. The conditions of these colonies differ across employers. Most of the workers lack access to clean drinking water, sanitation, electricity and subsidized food. Their children do not have access to education and in most of the sites, the children play in the work place. On the health front, the common diseases are fever, joint and body pain, cold, cough and diarrhea. Women do not have privacy due to small accommodation and common toilets. Most of the women are unskilled labourers and hired for least paid jobs. No demand is made by the women for skill training due to lack of awareness of opportunities and social conditioning. Most of the women and men workers are not aware of government welfare schemes, the Board, trade unions and NGOs. There are four existing special legislative provisions designed to protect the interest of construction workers- The Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (BCWA), The Building and other Construction Workers Welfare Cess Act, 1996 (BCWWCA), The Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (ISMWA) and The Legal Services Authorities Act, 1987 (LSAA). In July 2008, Government of Gujarat constituted a 12 member Gujarat State Building and Other Construction Workers Welfare Board under the BCWA, to start welfare measures for construction workers. This Board has launched 7 welfare schemes; children education assistance, maternity benefit, funeral benefit, medical assistance, housing and skill training for construction workers. The funding of the Board and its activities is provided from the Cess collected by the government under the BCWWCA.

The Board has been established with good intentions, and the Cess has provided funds of Rs. 131.88. crores. One of the main issues in the implementation of the Cess Act is that the cost of construction is fixed at a rate of Rs. 3000 per square meter which is much lower than the cost actually incurred. Based on this fixed construction cost, the state collects Cess at 1% of the total construction cost, which is only Rs. 30 per square meter. As a result, private construction companies save and the state loses revenue on Cess. Based on the type and location of the construction work the state needs to analyze and reassess the cost of construction and collect Cess accordingly.

Though the Board has collected Rs. 131.88 crores, only 10% of these funds have been used to provide welfare measures for the construction workers. Of the estimated 12 lakh construction workers in Gujarat, only 35,873 (2.99%) have been registered with the Board. The responsibility of registration is not pinned on any one authority, leaving registration open

to the choice of contractors, and the official machinery unable to ensure workers' registration. Lack of awareness among workers about the Board and its schemes and difficulty in getting 90 days certificate are the main reasons for not registering with the Board. The annual registration process is cumbersome and time consuming and even those already registered are required to re-register every year. The workers do not show interest to renew membership with the Board as they have not received any benefit so far and also the renewal fees of Rs. 75 is high compared to other states where it is only Rs. 10. The requirement for registration is a work certificate which contractors hesitate to give. Workers' unions and NGOs were first authorized to provide work certificates for registration, but later this authority was withdrawn, leaving registration now fully in the domain of government staff. Due to lack of initial capital the Board itself is under-staffed, lacks a good data base and management information system, and is inadequately equipped to handle the responsibility with which it is entrusted.

The ISMWA was introduced to regulate the employment of inter-State migrant workmen and to provide for their conditions of service and for matters connected therewith. However, during registration with the Board, it was observed that there is a bias in favour of the intra-state workers. All schemes of the Board are offered only to migrants from within Gujarat state. This bias against migrants from other states is further endorsed by the state's contract labour policy under which the contractor is supposed to give a guarantee that 85% of his workers are local workers. Along with the policy decision, the mind set of the officials is that as the Cess is collected from only within the state it should be used for the welfare of intra state workers only.

This study recommends changes in both policy and implementation of laws and regulations. At the national level, it is important to establish the rights of inter-state migrant workers. There should not be any discrimination between inter and intra state to provide employment and welfare measures. These inter state migrants have no access to subsidized food or basic health and education services in the destination state. The source state must be held responsible to provide ID cards and the destination states must be held responsible to ensure the protection of rights of migrant workers. They can coordinate with source states for certifications, cost-sharing, or reciprocal arrangements. Such coordination responsibilities must rest with the state if neglect of inter-state migrants and their effective disenfranchisement has to be addressed.

Proper functioning of the state Board requires full time staff to attend to its responsibilities. It needs to develop a good data base and MIS system. A single window system is recommended for registration of workers with the labour department and Board, which would save a lot of administration and logistics costs and also ensure that a maximum number of workers get registered. It is recommended to set up social protection centres within the Board and RLC which would provide information on jobs rights awareness and other related information. Issue of Job cards to the workers will significantly ease problems of getting 90 days certificate and also ensure that workers get minimum wage. Renewal fees need to be reduced from Rs. 75 to Rs 10 as is followed in states such as Tamil Nadu and Andhra Pradesh.

The welfare schemes of the Board are underutilized because of lack of implementation capacity. The demand for the schemes has not been generated, as the schemes are not known even to large contractors, let alone small contractors. Workers themselves are completely unaware of official provisions and entitlements. Better implementation of laws relating to migrant construction workers can only be done if the workers themselves are organised better. Trade unions need to enroll members so that workers are better organised. Various stakeholders like trade unions and NGOs need to engage more with issues of migrant workers. Vibrant youth forums and sakhi mandals could be used as agents to create awareness, register workers and ensure implementation of Board schemes. Thus representation and voice of workers need to be strengthened so that they are aware and can demand their rights and entitlements.

There is need to redesign the housing scheme under the Board to incorporate the high inflation rate of construction materials. It is suggested to add a few new schemes to the current list of 7 Board schemes. These are health insurance, financial assistance for marriage expenses and pension schemes. While adding these schemes, it is suggested to link all the Board schemes with state and national level official schemes in order to avoid overlapping.

It must be made mandatory for the principal employer to register all the workers on his site. In order to legally bind the principal employer, contractor and sub contractor to provide all the welfare and protection facilities as cited in the various concerned Acts of the migrant construction workers, it is recommended that a contract be signed between the government and the principal employer, between principle employer and contractor and between contractor and sub contractor wherein they declare that, in addition to the technical

requirements, they will provide all the welfare and protection facilities to all the workers employed on that construction site. The framework of this model contract should include the social and welfare facilities that the workers are entitled to as per all the relevant Indian laws.

This study on migrant construction workers reflects Millennium Development Goals 1, 2, 5 and 8; that is, eradication of extreme poverty, achievement of universal primary education, improvement of maternal health and development of global partnership for development. The study examined all the relevant factors of human development i.e access to basic requirements, state entitlements and resources of unorganized labourers who are a high risk and marginalized group. However, a deeper and more systematic analysis would be needed in order to understand the impact of various factors on human development.

The Government of India has introduced a number of Acts that cater to the wellbeing and welfare of the migrant construction workers. However, due to several reasons, the implementation of these Acts has been rather weak. Effective implementation, monitoring and evaluation mechanisms are not in place and thus act as a major deterrent. Gujarat state government has taken some steps towards registration of construction workers and some welfare schemes, but the structures and processes in place do not display serious intention, and are discriminatory towards migrants from outside Gujarat. The Acts need to be enforced with the same vigour and commitment with which they were formed; they will else become worthless. Gujarat has the wherewithal to put the recommendations made here into practice as well as to initiate a dialogue with the central government .

# **Study Report on Socio Economic Status of Unorganised Workers in Construction Sector in Gujarat**

## **1. Introduction**

Over the last decade, India has experienced rapid economic growth resulting in greater diversity and employment opportunities in urban centers. This growth has led to a tremendous increase in migration from rural to urban areas as rural youth seek a more lucrative livelihood away from the villages. Kumar (2004) explains that according to the model of human investment theory, migration of workers from the rural areas to urban areas is caused due to differences in the wage rates and that migration exists as long as surplus labour exists in rural areas and also until the expected urban income is equal to the expected rural income. The maximum scope for employment of the unskilled migrants in urban areas is present only in the construction sector. It is estimated that about 80 million persons migrate regularly between different states in India of whom 40 million take up jobs in the construction sector alone. As per the 1991 census, the inter-state migration is 11 million of which 5.8 million are females and 5.2 million are males (Iyer et.al, 2004).

The construction industry occupies an important position in the nation's development plans (Sarade, 2007). It is the second largest contributor to the Gross Domestic Product (GDP) after the agricultural sector. It provides substantial employment and growth impetus to other manufacturing industries such as cement, chemicals, bricks and paints. There are 1.7 crore workers in the building sector in India; these workers are one of the largest and most vulnerable segments of the unorganized sector (NSSO, 1999-2000). Women constitute more than one third of the work force in construction (Sarade, 2007). A decade ago, there were around 5 lakh construction workers in Gujarat state, of whom 50,000 workers were based in Ahmedabad city itself (SEWA, 2000). More recently it is estimated that about 12 lakh construction workers are working in 12000 construction sites in Gujarat state (Building and other Construction Worker's Welfare Board, 2008).

Several studies, carried out in various parts of India, have documented the livelihood status of the migrant workers and mentioned several problems that they face when they migrate to the

urban areas and work in the construction sector. It is imperative to understand why existing policies and legal frameworks are not working at the grassroots level and have failed to provide improved livelihood and working conditions for construction workers. Hence, the objective of this study is to analyze the ground realities and examine the livelihoods and provision of essential services for construction workers within the existing legal framework. This study has also developed a section on the welfare and social protections measures that would be mandatory in all types contracts made between the labour department and the principal employer; between the labour department and the contractors and also between the contractors and the sub-contractors. This would ensure that all the stakeholders become accountable in providing welfare and social protection measures for the migrant workers in the construction sector.

## **2. Objectives**

It is widely accepted that the ultimate goal of any society is to ensure human development along with economic growth. Human development refers to the increased capabilities of people who are marginalized and excluded from the mainstream of society to enable them to access larger opportunities in life. As this study examines all the relevant factors of human development i.e access to basic requirements, state entitlements and resources of unorganized labourers who are a high risk and marginalized group, it is of high relevance to human development. Hence, the Directorate of Human Development, Government of Gujarat mandated Sampark to conduct a research study on the **“Socio-economic status of unorganized labourers in construction sector”**.

The overall aim of the study is to document the livelihood status of unorganized migrant construction workers employed in Gujarat and identify the gaps between the legal provisions and ground realities. The study also aims to suggest elements of a model contract that would safeguard and protect rights of construction workers in Gujarat.

## **3. Methodology**

The study has been conducted in Ahmedabad, a big urban metropolis in Gujarat having plenty of employment opportunities in the construction sector. The focus of the study is to document

the socio-economic status of migrant construction workers and identify the gaps between the legal provisions and ground realities. Hence, the study has mainly used qualitative research methodology and collected data from primary and secondary sources. The data has been collected through Focused Group Discussions (FGDs) and case studies involving workers in the construction sector and personal interviews with the key stakeholders. The latter comprises of officials from the Road and Building Department and other relevant government departments: including Labour, Social Welfare, Health & Family Welfare, and Women and Child Development, Building and other Construction Workers' Welfare Board, contractors from companies, representatives of unions, cooperatives and NGOs working with migrant construction workers. The details of these are given in Table 1.

**Table 1: FGDs and Interviews with Stakeholders**

Particulars	Number
Site visits	12
FGDs with construction workers and sub contractors	12
Number of workers participated in FGDs	204
Personal interviews with contractors of 12 sites, representatives of unions and NGOs	29
Case studies of construction workers	8
Personal interviews with official departments	26
Visits to libraries and research institutions	7

**Figure 1: Departments Interviewed**

Table 1 shows that visits have been made to 12 on-going construction sites and 12 focused discussions were conducted with 204 construction workers using open ended research questions (Annexure 1). The average size of an FGD was 17 members

- Labour
- Road and Building
- Social Welfare,
- Health & Family Welfare
- Women and Child Development
- Building and other Construction Workers' Welfare Board

and each FGD consisted of between 7 and 20 members. The members included in the FGDs were selected in such way that they included migrant workers within Gujarat state and from other states as well, individual workers, families, women and men. This was basically

done for gaining a better understanding with respect to issues of gender and child rights; issues of inter and intra migrant workers and to ensure that these issues across private and public sector are represented. In the first two sites it was observed that the women were not comfortable participating in FGDs along with men. So for the remaining sites, separate FGDs were conducted for women and men, as a result of which information was gained on gender specific issues.

Twenty six personal interviews were conducted with the officials from the departments of Road and Building, Labour, Social Welfare, Health & Family Welfare, Women and Child Development; Building and other Construction Workers' Welfare Board (refer Figure 1) and twenty nine personal interviews were conducted with company contractors and representatives of unions, cooperatives and NGOs working with migrant construction workers. Details of the individuals interviewed under the study are given in Annexure 2.

#### **Figure 2: Institutions Visited**

The secondary data was collected from documents from institutions (refer Figure 2) such as the Gujarat Institute of Development Research, Mahatma Gandhi Labour Institute, Gujarat State Legal Services Authority, Human Law Rights Network, National Institute of Occupational

- Gujarat Institute of Development Research
- Mahatma Gandhi Labour Institute
- Gujarat State Legal Services Authority
- Human Law Rights Network
- National Institute of Occupational and Health (NIOH)
- Gujarat University
- Indian Institute of Management Ahmedabad

and Health (NIOH), Gujarat University, Indian Institute of Management Ahmedabad and also through web search. Information was sought with respect to significant data on migrant construction workers available post 1970 which included studies related to migrant construction workers across India and as well as those specific to the state of Gujarat. Information was also collected on the applicable international labour standards conventions by ILO and their ratification by the Indian government.

The collected data has been analyzed and the findings of the study and recommendations are given in sections 4 to 9.

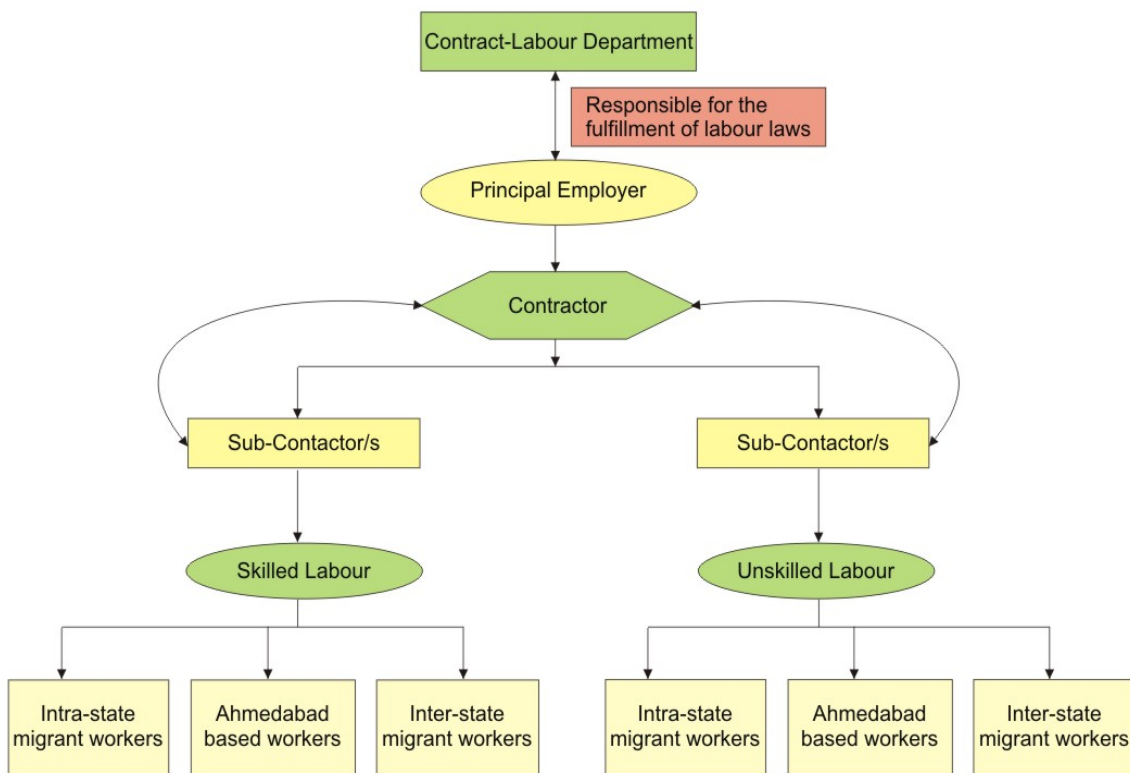


## 4. Contracting System in the Construction Sector

According to the BCWA, the principal employer is supposed to register the establishment with the Labour Department. The principal employer then appoints the contractor/s to take up the construction activities. This contractor is required to get the license from the labour department and also submit form 4 (application form for license) and 5 (Certificate of Contract Act) which contain all the necessary details of the contractor as well as the employer certificate stating that the contractor is being employed by him. Under the Certificate of Contract Act, the principal employer declares that he is bound by all the requirements of the Contract Labour (Regulation & Abolition) Act, 1970 and Contract Labour (Regulation & Abolition) Rules, 1970.

The principal employer hires a contractor/ s who in turn either hires workers directly or further hires sub-contractors who then hire the workers. These workers could be locally available or they might be brought from other places (migrant workers). This contracting system in the construction sector is depicted in the Figure 3.

**Figure 3: Construction Sector Contracting System**

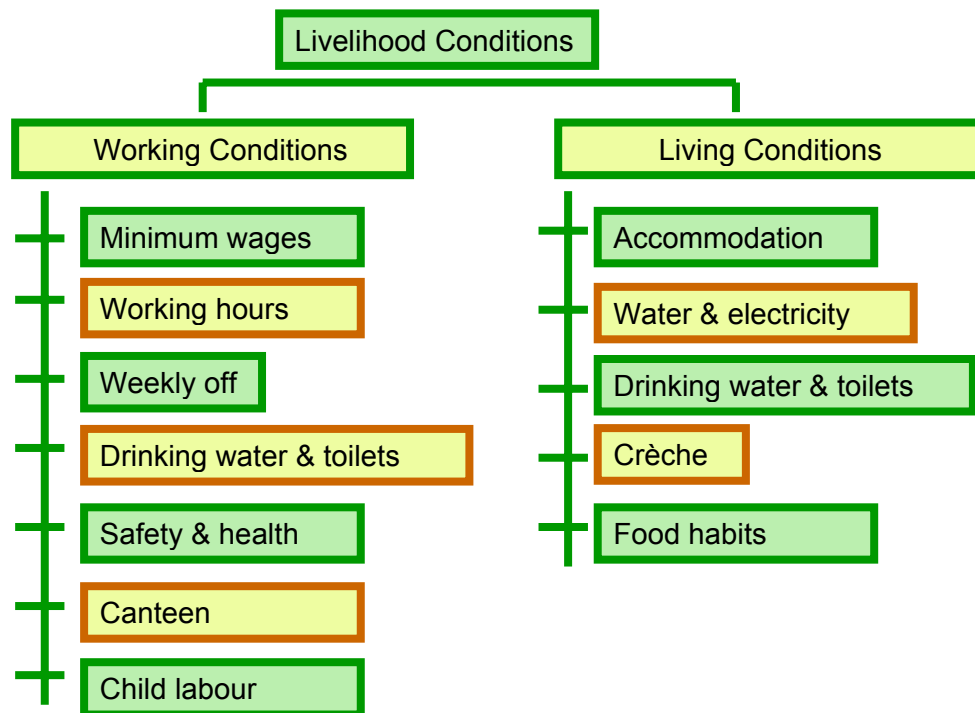


The principal employer thus is the only entity that is responsible and accountable to the labour department for the fulfillment of all the required norms and legalities under the relevant Acts. On the other hand, the contractors and sub-contractors who actually work directly with the workers are not legally bound to do so.

## 5. Review of Socio Economic Conditions of Construction Workers

This section deals with the socio economic status of the construction workers. This was assessed by evaluating the dimensions of working and living conditions of the construction workers. Figure 4 shows the aspects studied.

**Figure 4: Condition of Construction Workers**

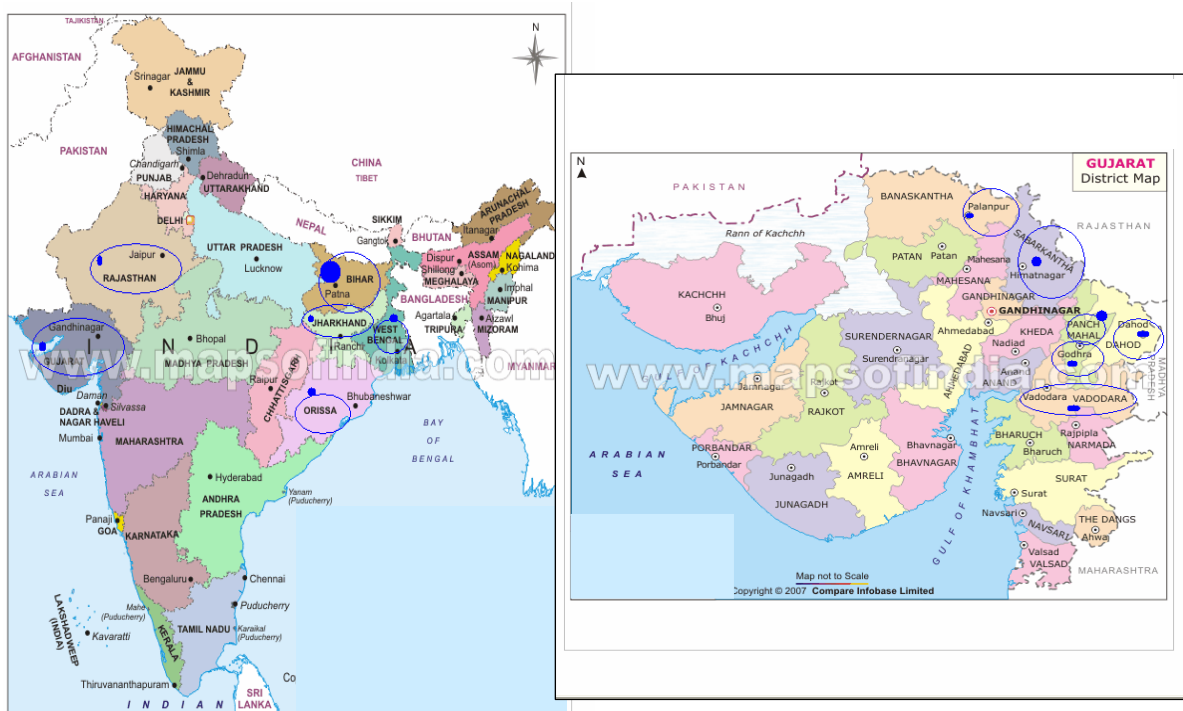


It includes information on migrant origin, their employment, working and living conditions. Gender and health dimensions of the construction workers livelihoods are also presented.

## 5.1 Who Migrates and Why

Unsustainable rural livelihoods are the main reason for migration. Most of the migrant workers are landless and are BPL card holders. The few, who are land-owners, have dry and arid lands. Some of the workers own cows, goats and poultry in their villages. In rural areas, the migrant workers do not have regular work in agriculture and do not have any other business opportunities. There is need to earn money to meet the regular household expenses, for children's education and for marriages and other family functions. Due to all these factors the construction workers migrate from rural to urban areas within (intra-state) and outside the state (inter-state).

Figure 5: Maps Showing Inter and Intra State Migration



The intra state workers in the sample interviewed were from Dahod, Vadodara, Palanpur, Panchmahal, and Sabarkantha districts (refer Figure 5). Inter state migrants covered were from Rajasthan, West Bengal, Orissa, Bihar and Jharkhand. Intra state migrants were found to be mostly from tribal areas and were unskilled labour who have migrated along with their families. The workers from Rajasthan, West Bengal and Orissa are skilled labour and have mostly migrated without family. Most of the workers interviewed have migrated to Ahmedabad with the support of local sub contractors (*thekedars*). In some of the construction sites, separate labour

colonies were set up for the intra and inter state migrants to avoid conflicts between them due to their food (vegetarians and non vegetarians) and cultural habits.

The age of these workers ranges between 12 and 52 years and most of them are illiterate. Some of them have done about 5-8 years of schooling. Most of the men speak Hindi and Gujarati where as the women speak only Gujarati, this may be because men from outside Gujarat often come without family.

Moulik and Mehta (1990) in their paper 'Migration: A case of Gujarat' found that within Gujarat the highest proportion of migrants was from Panchmahal and Dahod. The push factors for migration were drought prone, small land holdings, lack of employment opportunity (Hirway, 1987). Two decades later, the situation remains the same with large number of people migrating from Panchmahal and Dahod in search of livelihood. This highlights the fact that there is no balanced regional development happening even in the prosperous and shining state of Gujarat.

Though several anti-poverty programmes have been planned and implemented to reduce poverty and also migration, they have not reached migrant workers in a significant way. This is mainly due to their frequent mobility and the fact that they no longer belong to either the origin or destination state. Therefore, the migration policy should be linked with better and well integrated planning for development and for poverty eradication (Hirway, 1987)

## ***5.2 Migration Patterns***

There are three types of migrants in the construction sector in Ahmedabad, i.e. intra-state, inter-state and Ahmedabad based workers (those who had migrated to Ahmedabad more than 20 years ago). Most of the workers are seasonal migrants and stay in the city for about 5-7 months at a time. During the monsoon season the workers go to their villages and support the families in agriculture. Intra-state workers visit their villages once in 2-3 months and stay for about 7-10 days in the village each time, whereas inter-state workers visit their families twice a year for Diwali and Holi and stay for about 15-20 days each visit. During Diwali, both inter and intra state migrants go to their villages and come back only after the celebration of the Gujarati New Year which follows Diwali. Along with these visits the workers also go to their villages in cases of emergency and also to attend marriage or deaths of the family members. Usually marriages are conducted in the month of March when Holi is celebrated; so that the workers can use the visit for both purposes i.e. celebrating the festival and also attending the marriages of the family members.

### 5.3 Employment and Working Conditions

As on 11<sup>th</sup> Feb, 2009, state minimum wages for the building and other construction workers are given in Table 2.

**Table 2: Minimum Wages for Skilled and Unskilled Workers**

Classification of Employees	Daily wage in Rs	
	<sup>1</sup> Zone 1	Zone 2
Skilled labourer - A (carpenters, blacksmiths, plumber stone cutter working with instruments such as drilling.)	150.00	148.40
Skilled labourer – B (assistants of carpenters, blacksmiths, plumbers, truck drivers, head fitter, oil painter with instruments, electrician)	141.30	140.50
Semi skilled labourers (foremen, cleaner, supervisors, colour washer, oil man, engine driver, pump operator, fitter, telephone attendant, assistant electrician.	137.60	136.90
Unskilled labourers	135.50	138.40

With respect to unskilled labour, out of the 12 sites visited, only in 2 sites are the contractors following the norms of the Minimum Wage Act, and paying a daily wage of about Rs. 140 to 180 for 8 hours of unskilled work. In the remaining 10 sites, the unskilled workers are getting Rs. 100 – 120 for 8 hours work, which is less than the minimum wage. The unskilled labourers earn about Rs. 120-170 that includes about 4 to 5 hours of overtime. In all the 12 sites it was noted that there was equal remuneration across gender. Most of the workers are not clear about the minimum daily wage for 8 hours of regular work and also about the rate they are entitled to get for working overtime. As per the Act, the workers are supposed to get double rate for overtime. They are getting paid on an hourly rate of their regular work. Some of the contractors consider 3 to 4 hours as half-day for the purpose of overtime payment.

In all the sites, the skilled labourers such as carpenters, plumbers, drilling machine operators, and fitters get a daily wage of about Rs.200 to 300 per day for 8 hours work or Rs 5000 to

<sup>1</sup> Zone-1 = comprises of the areas within the limits of the municipal Corporation and the areas falling within a peripheral distance of ten kms from the aforesaid limits

Zone-2 = comprises of the areas within the limits of the cities having a population of one lakh and above according to the figures of states census available and falling with a peripheral distance of twenty kms from the aforesaid limits.

8000 per month, which is higher than minimum wages. Most of the skilled labourers interviewed were from Rajasthan, West Bengal and Orissa and the unskilled labourers were from Panchmahal and Dahod districts of Gujarat. A case of inter state migrant worker is given in Figure 6.

The workers work from 9 am to 6-7 pm, with one hour lunch time. Most of the skilled and unskilled labourers work for about 12- 14 hours (from 8 am to 10 pm) in a day. Unskilled labourers are able to earn about Rs. 2750 to 4000 per month including overtime. On an average, skilled and unskilled labourers, who are single, are able to save about 60-70% of their earnings; and the labourers who have migrated with their families are able to save 20-30% and send this amount to their parents and families in the villages. In most of the cases, the workers received gifts (crackers and sweets) during Diwali and Holi.

The labourers spend 25-30% of their earnings on food and 10-15 % to meet medical expenses and entertainment. Most of the workers either travel to their villages to give the money to their families: or send it through relatives and friends. In general,



short-term migrants have not been able to save and make any assets; whatever they earn and send to families is just enough to meet livelihood expenses. On the other hand, workers who have been involved in the construction sector for about 5-6 years have been able to create assets: repair the house, purchase milch cows, goats, or even small pieces of land (1/2 to 1 acre). Depending upon their relationship with the sub-contractors, the workers take loans of amounts ranging from Rs. 500 to 5000 to meet emergency expenses of medical treatment or marriage and festivals. These loans carry no interest and are usually returned through deductions from their wage payments.

**Figure 6: The Case of an Inter-State Migrant Worker**

Ahmedabad based unskilled construction workers are able to bargain and get up to Rs. 200 per day for 8 hours work, which is mainly because they can take the risk of irregular work as their families are based in Ahmedabad. On the other hand, migrant workers cannot afford to lose regular work, so they work even with lower daily wages. Their intention is to earn as much money as they can during their migration period and return to their villages with good savings. Out of 12 sites, only at 3 sites (refer Table 3) do the workers get a weekly off, whereas

Ramesh belongs to Rajasthan and migrated to Ahmedabad 4 years back with his wife (Sangeeta) and children. He has 3 children, 2 boys (8 years and 6 years old) and 1 girl (11 years old). They have land in the village with a house where his parents, brothers and their families live.

Due to the drought and low productivity, Ramesh decided to shift to the city in search of work. They go home twice a year.

Ramesh works as an unskilled worker for big contractor, whose principal employer registered with labour department at the site and gets paid Rs. 100 per day. With overtime, he earns up to Rs. 3,500 per month. He has been getting this wage for the last 4 years. He does not have any written contract with his contractor. Working hours at the construction site are from 9 am to 6 pm. Ramesh sometimes works late into the night and Sundays as well. The contractor gives them a weekly *kharcha (expenses)* of Rs. 300. Salary is given once at the end of the month. Ramesh does not have an account in any bank. He has not taken loans from anyone or anywhere because no one is willing to give him loans. However in dire emergency he borrows money from his contractor at a zero interest rate and the amount is adjusted against his future wages.

In case of accidents or illness, the company takes him to the hospital and pays for his treatment. No money is deducted from his wages towards this treatment. The company has also provided him with a one room shed with drinking water and electricity. None of his family members have suffered from any major illness, just mild fever and cough sometimes.

Whenever they need more money, his wife Sangeeta also works and earns Rs. 100 per day. This is usually before travel to their village or when there has been more than normal medical expenses.

They spend around Rs. 300 per week, or Rs. 1200 per month, on food. They have no savings. The children do not go to school but stay at the labour colony site itself. Neither Ramesh nor Sangeeta are aware of any government schemes, NGOs or trade unions. Even though they have no savings, they are happy here.

in all the remaining sites, the workers work throughout the month except on new moon (*Amavasya*) day. This is mainly because, the workers and contractors believe that the new moon day (*Amavasya*) is not an auspicious day for any work, so they take time off on that day

and either rest or do their food shopping. Sometimes there is pressure from the contractor to work on Sundays too as they have to complete the work on time. In some cases the workers themselves do not want to take off on Sundays and also prefer to do more overtime as it gives them an opportunity to earn more

money within a short period of time. In this study, it was found that both skilled and unskilled labourers get their wages on time i.e. usually their payment is once in 15 days or monthly. In order to meet certain living expenses, the contractor gives the workers an advance from their wages in the form of a weekly “kharcha”. This amount paid is then deducted from their monthly wage. It was also noted that some of the contractors do not pay the workers their full due in order to keep them under their control and prevent them from moving to other sites or staying back in the village. If due to any reason, the worker does not return from his native place, he loses 25% of his payment. A case of intra-state migrant is given in Figure 7.





### Figure 7: The Case of an Intra-State Migrant Worker

Most of the times the workers do not have any relationship with principal employer or contractor, he is only known to the sub-contractor, who has brought him to the work. In a few cases, the workers have even lost 3-4 month's wages as the sub-contractor had taken money from the principal employer and disappeared from the site. Some of the principal employers and their contractors said that they do not have any control over

Keshav (30) is an unskilled worker working in a construction company along with his wife (Pari, 28) for the past 5 years. Keshav got married when he was 18 years old. The couple owns land and house in their village. Due to lack of rain they have migrated from Dahod to Ahmedabad. They now have 5 children. Their oldest child goes to a crèche in the labour colony and other 3 children are in the village with their grand parents. The fifth child is 3 months old and is with the mother.

Keshav works from 9 am to 6 pm on all days of the week. Amavasya is the only holiday that he gets. Both of them earn around Rs.6,500 to 7,000, including their overtime pay. His wife earns Rs.100 per day. From this amount they send Rs.2,000 to their parents who stay in the village and look after the agricultural work there. The couple spends around Rs.1,500 to 2,000 on medical expenses every month. They usually take a weekly advance of Rs. 500 to celebrate on Sundays. The couple has not saved any money over the past five years as they have had to spend on the crops and daily family expenditure. Their children suffer from fever, vomiting and diarrhea from time to time. During her pregnancies, Pari availed of free medical treatment from the government in Dahod. They have not accessed any government benefits in Ahmedabad. Keshav and his family go to their village once in 4 months. From there they bring some provisions like wheat, rice, dhal, onion, garlic, chilly powder etc. These are purchased from the government ration shop by their parents. In Ahmedabad they purchase these items from nearby shops. Keshav doesn't have labour registration card and is also not aware of any government welfare schemes. He is not a member in any trade union and is also not aware of any NGOs.

payments of the workers, as they pay the sub-contractors, who in turn pay the labourers. In the interview with the contractors they declared that they all pay the stipulated minimum wages. However, during the discussions with the workers it was learnt that most of the unskilled workers do not get the stipulated minimum wage. The current laws place full responsibility on the main contractor, who does not keep the workers on his rolls, but subcontracts. There is no legislation to specifically control the sub-contractors who are directly connected to the workers, with regard to payments and working hours.

Since 2005 after the formation of Board, DISH offices in Gujarat launched 112 prosecutions for the violation of safety measures. In spite of these measures out of the 12 sites visited, at only 3 sites were the workers wearing helmets and shoes and were provided with safety nets when they worked in high rise constructions. These sites have one safety officer to look after

the safety measures on the site. Along with these safety measures, the big project sites also organize awareness cum training programmes on the importance and usage of safety equipments. On another 3 sites, workers were seen using helmets; however, no other safety measures were being followed. Other safety measures such as using spectacles during welding and stone cutting were not followed on any of the work sites visited. On six sites there were no safety officer and no safety measures were being followed. In some cases the contractors have provided helmets but the workers do not wear them. This is especially true of the women as they are shy and not aware of the importance of helmets. There is need to create awareness among workers about the importance of safety measures and using the relevant equipments, so that when they are not provided such equipment, they can themselves demand the same from the contractors.



Child labour was not prevalent at most of the sites that were visited. Out of the 12 sites, only in 2 sites were there children aged between 12-17 years engaged in the construction work. On one of the sites, a 12 year old girl died when she was working and the company paid compensation to the family. On another site, there were 7 girls who had come very recently (15 days work experience) to that particular construction site in Ahmedabad along with their brothers or fathers. Some of them had also come on their own or with neighbours. Some of them wanted to return to the village after working for about 3-4 months and earning enough money to save for their marriage, and others did not wish to go back to the village.

Most of the male workers are interested in improving their skills in carpentry, plumbing, painting, wiring, and electrical jobs. This is mainly because if they become skilled labourers in these fields, they can increase their daily wage from Rs. 100-120 to Rs. 200-300.

Overview of the working conditions of the construction workers shows that while skilled labourers get paid the minimum wages, majority of the unskilled labourers do not get the stipulated minimum wages. The workers work overtime but do not get paid double the rate as is required under the Act. The contractors pay the workers their wages once a month but also give them a weekly “kharcha” to meet their weekly expenses. This is then adjusted against the pay they receive at the end of the month. At most sites safety measures are not being followed seriously by the contractors and the workers. There is a lack of awareness among the workers about the importance of these safety measures and a sense of indifference among the contractors to provide safety equipment and enforce safety norms.

The conditions of construction workers are very dehumanizing as they are exposed to most dangerous situations and also prone to accidents. There are about 3 lakhs house construction migrant workers in Punjab and Haryana and migrated from Utter Pradesh, Rajasthan, Madhya Pradesh, Tamil Nadu. There are no labour sheds, toilets facilities, compliance with minimum wages, no provision of education for their children and no accident compensation and medical facilities. They are not aware of their rights due to their low literacy levels (Iyer et.al, 2004).

#### ***5.4 Access to Basic Services and Living Conditions***

In all 12 sites, the workers had been provided accommodation in sheds, drinking and bathing water which is usually used for the construction purposes. Out of 12 sites, in 4 sites (refer Table 3) the contractors had provided latrines and in the remaining the workers use open places. The sheds are usually in the labour colony which is near to the



construction sites and in some rare cases at a distance of about 3-4 kms. In some cases the accommodation was provided in the building under construction. This was typically a big hall in the ground floor of the building, where the workers kept all their belongings, set up a

cooking place and slept there itself without any privacy as there are no separators. The accommodation of the workers is in small sheds (7X12 feet for a group of 5-6 men without families/bachelors and 5X7 feet for the families with 5 members) with tin sheets where 5-6 men or a family with two- three children stay. Only the workers involved in road construction work stay in the tents (made with tarpaulin sheets) on the road side, without electricity. Depending upon the type of work, for example, if it is commercial complex, hotel, or residential apartments, the workers gets electricity and clean drinking water facility as they use the same water that is used for the construction purpose (usually bore well water, which is clean). But if the work involves construction of bridges along the river, or water treatment plant, the same river water which is dirty is used for the construction as well as for bathing by the workers. Usually these workers do not have access to electricity, as their colony is on the river bank.

Most of the migrant construction workers have ration, BPL and voter cards in their villages. Some of the workers; especially inter-state migrant workers, carry their voter card as an ID proof in order to avoid harassment from the local police. Intra-state migrants get their ration (rice, wheat, onion, garlic and dry chilies) when they visit their villages once in 2 months, as their parents or older people who stay at home buy and store such essential items. Inter-state migrant workers purchase their ration from shops near the construction site itself, as they go home only twice a year and the rations which they get through the card are used by their family members. Hence, these workers spend more money on food grains as compared to intra-state migrants. In 3 of the 12 sites, the company provides canteen facility where the workers have lunch and dinner; and they buy tea from the shops outside the site. Out of the 12 sites, in 4 sites the contractors provide tea twice a day for the workers. Food habits of these workers include: rotis made from wheat flour, raw onion, dal and sabzi (lentils and vegetables) and sometimes they replace rotis with chawal (rice). Most of the men workers have tobacco (*thumabku*) regularly and in-spite of Gujarat being a dry state; they have liquor twice in a week.

Out of the 12 sites, in 4 sites (refer Table 3) the children have access to crèches where they learn the basics of language and math and are given lunch; in the remaining 9 sites, the children spend the day playing in the construction sites. In two instances the children had met with accidents when they were playing in the sites. These children were not enrolled in nearby government schools as they did not know the local language due to migration of parents.

The common ailments that the workers of these sites report are fever, joint and body pains (back, neck, and leg pains), cold, cough and diarrhea and malaria during rainy season. For the workers involved in civil constructions the main occupational hazards are minor to major injuries due to accidents. On the health front, skin diseases and malaria are common among those involved in the construction of water treatment plants and bridges on river banks.

Out of the 12 sites, in 2 sites the doctor visits once a week and treats the workers who are ill. In 4 sites, the contractors spray powder inside the sheds and labour colonies as a preventive measure for malaria. In case of bridge construction work on rivers, this was not possible as the river water would get polluted. For minor illnesses like fever, cold and small injuries on site, the labourers' families get their medication and treatment from the first aid room on site or buy medicines from a medical shop without doctor's prescription. If the illness still continues even after the first aid treatment, then the workers go to the doctor for treatment and also pay for it. Most of the workers, especially the men who have migrated without their families miss them a lot; in fact they said, *"It's not as if only our wives cry, we also cry because we have to stay for about 4-5 months without seeing our wives and children"*. Medical expenses of men without families spend are about Rs. 50 to 150 per month, whereas those with families spend about Rs. 100 to 1000 depending upon the number of family members. Also, since they stay in small sheds, even if one of them gets fever or cough, within no time, it spreads to all family members. Thus, medical expense is one of the main reasons for the lower savings of the migrant families.

#### Figure 8: Details of an Official Scheme

None of the workers have health insurance, though the contractors' claim that they have covered the workers under group health insurance schemes. In most cases when the women get pregnant they go to their villages as they do not have enough space in the sheds. In their villages, they can also avail the

*Chiranjeevi* is an official maternal health care scheme for the women of BPL families. Under this scheme the beneficiaries get pregnancy related health services from private doctors free of cost. Along with free medication, Rs. 200 is provided for transportation expenditure and Rs. 50 to the attendant accompanying the pregnant woman. This is a public-private partnership scheme, and 832 private gynecologists are registered under this scheme throughout the state of Gujarat.

facility of free treatment meant for BPL families under the official maternity health care scheme called "Chiranjeevi" (refer Figure 8) offered by the Department of Family and Health.

Regarding the living conditions, all the workers have been provided with accommodation in labour colonies on or near the construction site. The conditions of these colonies differ across employers. Most of the colonies have water and electricity facilities. Privacy, especially for the female workers, is however an issue. Most of the workers are not aware of government welfare schemes, the Board, trade unions and NGOs.

Construction labourers work under very hazardous conditions. Safety conditions and measures are hardly met. In case of an accident, there is, in general, no provision for financial and medical aid. It is up to the workers themselves to arrange for the treatment. There is no scheme like ESI coverage for them. In the extreme cases like death, no body owns responsibility (Sarde, 2007).

With regard to women and children, the problems at work site get compounded and multiplied. More so, if they are pregnant or having small children. There is no system at all to take care of these children at work site. The women can neither afford to leave the children unattended nor absent themselves from work as they would face extreme financial hardship. Living conditions of migrant workers are often subhuman with no provision for clean drinking water, toilets and sanitation. (Sampark, 2008, Kumar, 2005).

A study conducted by SEWA, Gujarat (2000) showed that workers (women and men) complained that they were not provided any basic amenities, except drinking water on the sites. Many had several physical injuries during on-site work. Majority of workers (88%), especially women workers, were not aware of any union and 99% of them expressed their willingness to join unions.

### ***5.5 Gender Dimension***

Migration patterns show that most of the women labourers have migrated either along with their husbands or their brothers; though some have come with their neighbour or extended family. The majority of these women are unskilled and hence hired at the lowest daily wages. However, their wages are at par with those of unskilled men. In most of the cases, wife and husband work under the same contractor at the same construction site and stay in the shed in labour colony. However in some of the cases, where the wife and husband work at different sites, the woman is given accommodation for the family at her work site.

On the safety front, in the sites where the company has provided helmets as safety measures, it was observed that most of women felt shy to wear them and also did not understand the importance of these safety measures.

In some of the sites, the women do not have privacy due to the small accommodation and common toilet and bathing facilities without roofs, walls or separators.



In the FGDs, it was learnt that most of the male workers were interested in improving their skills in carpentry, plumbing, painting, wiring, and electrical jobs. None of the women expressed their interest in improving their skills. This is probably because women mostly take on unskilled work as helpers, assisting the men in their work. They do not have any ambitions to develop any skills and increase their earnings. None of the sites visited under the study provided maternity leave with pay to their women worker as is required by the Act.

A number of inter-state workers have left their children behind in their native villages in order to benefit from the free primary education that they are entitled to in their villages. They are forced to be separated from their children because they are aware that their children will not be given admission in local schools in Ahmedabad due their frequent mobility and the language barrier.

These findings are also reflected in some of the previous studies. According to the Reports of the National Commissions on Labour (2002), women engaged in construction work are most exploited. Women and children are often deprived of primary facilities like health, water, sanitary facilities and education. In most cases safety norms are violated and maternity benefits are often not given though obligatory. Crèche facilities and social security benefits are not provided at most work sites.

## ***5.6 Collectivization of Labour***

Out of the 12 sites visited, only at 1 site did the workers know about and are members of the trade unions as they are organized by SEWA, a central trade union based in Ahmedabad.

None of the construction workers in the remaining 11 sites are members of trade unions or self help groups. Also, the workers do not want to become members of trade union because they do not want to spend money and time on these issues; their aim is to earn money as soon as possible and go back to their village and look for sustainable livelihoods opportunities. In their context, the only collectivization seen is that 10-15 workers from



the same village migrate, stay and work together under the same sub-contractor. Formal organization and unionization of these migrant construction workers is challenging due to the migratory and seasonal nature of work; scattered location of work and also the workers' fear of the sub-contractors with whom they work.

Thakur (2008) in impact studies of labour regulations on growth and employment in small and micro enterprises, industry, mentioned that trade unions have become weak, their membership base has reduced and the drive to enroll more members in newer areas has not got off the ground. Their capacity to promote workers interest has turned ineffective. Because of this, organizing and empowering the workers to fight for their rights has also become weak.

None of the intra and inter state migrant construction workers know about the Building and other Construction Workers' Welfare Board and its benefits. The Ahmedabad based construction workers were at least able to talk about the registration with board and its benefits. This was mainly because SEWA made efforts to organize them as trade unions and also created awareness about the Board. But there were no further efforts made to empower workers to visit the Board on their own and renew membership.

Most of the workers do not know about government schemes except that the intra state workers know about free delivery facilities during pregnancy. Both intra and inter-state workers are aware of and avail the free ambulance facility under the 108 official scheme.

A snap-shot of the 12 construction sites visited and the rating according to the various criteria that have emerged from the 4 relevant Acts (mentioned in section 6) is given in Table 3 comprises of 26 criteria for rating the companies with respect to their compliance with the Acts.



**Table 3: Compilation of Companies Compliance with Acts**

Sl.No	Criteria /company name	Site 1	Site 2	Site 3	Site 4	Site 5	Site 6	Site 7	Site 8	Site 9	Site 10	Site 11	Site 12	Total
1	Shelter	1	1	1	1	1	1	1	1	1	1	1	1	12
2	Drinking water	1	1	1	1	1	1	1	1	1	1	1	1	12
3	Electricity	0	0	1	1	1	0	1	1	1	1	1	0	8
4	Toilets	0	0	1	1	0	0	1	0	1	0	0	0	4
5	Washing facility	1	0	1	0	0	0	1	0	1	0	1	0	5
6	Creche	1	0	1	0	0	0	1	0	1	0	0	0	4
7	Canteen	1	1	1	0	0	0	0	0	0	0	0	0	3
8	Tea facility	1	0	1	0	0	0	1	0	1	0	0	0	4
9	First aid box	1	1	1	1	0	1	1	1	1	0	0	0	8
10	Medical doctor visit site	0	0	1	0	0	0	1	0	0	0	0	0	2
11	Maternity leave with payment	0	0	0	0	0	0	0	0	0	0	0	0	0
12	Usage of safety equipments	1	0	1	0	0	1	1	1	1	0	0	0	6
13	Safety officers	1	0	1	1	0	0	1	1	1	0	0	0	6
14	Minimum wages for skilled	1	1	1	1	1	1	1	1	1	1	1	1	12
15	Minimum wages for unskilled	0	0	1	0	0	0	1	0	0	0	0	0	2
16	Equal wages for male and female workers	1	1	1	1	1	1	1	1	1	1	1	1	12
17	Wages on time	1	1	1	1	1	1	1	1	1	1	1	1	12
18	Overtime wages at double rate	0	0	0	0	0	0	0	0	0	0	0	0	0
19	Weekly holiday	0	0	1	0	0	0	1	1	0	0	0	0	3
20	Age limit 18-60 years (not having child labour)	1	1	1	1	0	1	1	1	1	1	0	1	10
21	Transportation to labour colonies	1	1	1	0	0	1	1	*NA	*NA	*NA	0	*NA	5
22	Register all workers	0	0	0	0	0	0	0	0	0	0	0	0	0
23	Travel and shifting allowance to inter state workers	0	0	0	0	0	0	0	0	0	0	0	0	0
24	Records of workers list and their payments	1	1	1	0	0	1	1	1	1	1	0	0	8
25	Bonus	1	0	1	0	0	0	0	0	0	0	0	0	2
26	Issue of ID cards	0	0	1	0	0	0	1	0	0	0	0	0	2
	<b>Total</b>	<b>16</b>	<b>10</b>	<b>22</b>	<b>10</b>	<b>6</b>	<b>10</b>	<b>20</b>	<b>12</b>	<b>15</b>	<b>8</b>	<b>7</b>	<b>6</b>	
	<b>Percentage</b>	62	40	85	38	23	38	77	48	60	32	27	24	0
	* These sites have labour colonies on the site itself and thus no need to provide transportation													

All the companies have provided their workers with shelter, drinking water, minimum wages for skilled workers, equal remuneration across genders and on-time payment of wages. On the other hand, maternity leave, over-time wages at double rate, registration of all workers with the labour department and provision of travel and shifting allowance to inter-state workers are criteria that are not being met at any of the 12 sites. Over time wages are either being paid at the regular daily wage rate or at a slightly higher rate; but not at the stipulated double rate.

Table 3 shows that there are 2 companies that meet a maximum number of requirements; Company 3 and Company 7 with 85% and 77% respectively. Company 1 and Company 9 have recorded a compliance percentage of 62% and 60% respectively. This reflects the fact that it is not an impossible task to meet the requirements under the Acts. It is these companies that must emerge as role models for others.

## 6. Policy and Legal Frameworks

ILO sets minimum standards for basic labour rights. Its “core labour standards” include freedom of association, the right to organize and bargain collectively, the abolition of forced labour, equality of opportunity and treatment and the effective abolition of child labour. To maintain these labour standards ILO forms conventions which would be ratified by the countries and made into rules and acts by the governments. Though the costs tend to

increase due to implementation of labour standards, there are also advantages of implementation of labour standards. For example freedom from discrimination reduces the risks of skills and capabilities being wasted and also elimination of child labour improves economic prospects by getting children more educated. The implementation of labour



standards also contributes to the social and political stability; it has been recognized as one of the poverty reduction strategies (Consumer Unity & Trust Society (CUTS), International, 2005). The conventions which are ratified by the GOI are given in Table 4.

**Table 4: Consolidation of Migrant Construction Labour Related Conventions**

<b>S. No</b>	<b>Name of Convention (C)</b>	<b>Date of Ratification</b>
1	C-1 Hours of Work (Industry) Convention, 1919	1921
2	C-14 Weekly Rest (Industry) Convention, 1921	1923
3	C-19 Equality of Treatment (Accident Compensation) Convention, 1925	1927
4	C-26 Minimum Wage-Fixing Machinery, Convention, 1928	1955
5	C-42 Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934	1964
6	C-81 Labour Inspection Convention, 1947	1949
7	C-100 Equal Remuneration Convention, 1951	1958
8	C-118 Equality of Treatment (Social Security) Convention, 1962	1964
9	C-144 Tripartite Consultation (International Labour Standards) Convention, 1976	1978
10	C-122 Employment Policy Convention 1964	1998

These ratified conventions were used to form various relevant acts for the welfare of migrant construction workers. This section provides details about the laws for the welfare of the construction workers that were formed post ratification and the status of their implementation at the ground level.

### **6.1 Existing Laws and Status of Implementation**

The existing special legislative provisions that would protect the interest of construction workers are as follows:

- a. The Building and other Construction Workers (regulation of employment and conditions of service) Act, 1996 (BCWA).
- b. The Building and other Construction Workers Welfare Cess Act, 1996 (BCWWCA).

- c. The Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (ISMWA).
- d. The Legal Services Authorities Act, 1987 (LSAA).

The details of these acts are given below

**a. The Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.**

**Central Legislation:** At the central level this Act has been set up as a comprehensive legislation for regulating the safety, health, welfare and other conditions of service of the building and other construction workers. It came into force on the 1<sup>st</sup> March, 1996 and it applies to every establishment which employs, or had employed on any day of the preceding year, ten or more building workers in any building or other construction work. This Act also has taken care of relevant Labour Acts such as Minimum Wage Act, 1948, the Contract Labour Act 1970, Equal Remuneration Act, 1976, Workmen's Compensation Act, 1923, and Employment of Children Act, 1979. The Act provides for fixing the hours of a normal working day, weekly paid rest day, wages for overtime, basic welfare amenities such as: accommodation, drinking water, latrines, crèches, first aid and canteens etc for the construction workers.

Under the Act, the Building and Other Construction Workers' Welfare Board (here onwards referred to as Board) is set up with a chairperson, a person to be nominated by the Central Government and such number of other members, not exceeding 15, as may be appointed to it by the State Government. The secretary of the Board shall be its CEO.

a) Functions of the Board:

- a. Assistance to accident beneficiaries: Rs.200000 - for death due to accident during work and Rs. 100000 compensation for the permanently disabled worker.
- b. Payment of pension
- c. Sanction housing loans and advances to beneficiaries: Rs, 20,000 for purchase of house under govt. housing scheme.
- d. Payment for Group Insurance Schemes.

- e. Financial assistance for education of children of beneficiaries: Depending upon their education levels Rs. 250 to 20,000 is provided for two children in family.
- f. Medical expenses for treatment of major ailments of beneficiaries or dependents: 75% of the expenses limited to Rs. 100,000 for diseases to heart, kidney, cancer and T.B.
- g. Payment for maternity benefits: Rs. 3000 is provided for nutrition of child and mother.
- h. Other welfare measures:
  - i. Funeral benefit scheme: Rs.2000 – Accidental and natural death.
  - ii. Training and assistance: stipend of Rs. 1500 per month and Rs. 5000 for the purchase of instruments.

The details of the Act are given in Annexure 3.

**State legislation:** At the state level, the Building and other Construction Workers (Regulation of Employment and Conditions of Service) rules, were framed in 18<sup>th</sup> August 2003 and the Act came to implementation from June 2005. Government of Gujarat (GoG) assigned the work of implementation of the Act to the Directorate of Industrial and Safety and Health (DISH) working under the Labour and Employment Department of Gujarat and started working effectively in May 2005. The GoG has constituted both Expert and State Advisory Committees on the 15<sup>th</sup> June and 18<sup>th</sup> June 2008 respectively. On 11<sup>th</sup> July 2008, GoG constituted a 12 member Gujarat State Building and Other Construction Workers Welfare Board to look after the welfare measures for construction workers. The Hon. Minister of Labour is the chairperson of the Board. As on November, 2009 the Board works with two fulltime staff i.e. 1 secretary and one support staff.

As on November, 2009 the board implements 7 welfare schemes, which include:

- Children Education Assistance –depending upon their education levels Rs.250 to 20,000 is provided for two children in family. The break up of financial assistance for education is given in Table 5.

**Table 5: Children Education Assistance**

<b>Scholarship contributions</b>	<b>Education</b>
(1) Rs.250.00	Std. 1 to 4
(2) Rs.500.00	Std. 5 to 9
(3) Rs.1000.00	Std. 10 to 12 Rs.1500 (Hostel)
(4) Rs.5000.00	Std. I.T.I. Course
(5) Rs.5000.00	Diploma Course Rs.7500.00 (Hostel)
(6) Rs.10000.00	Degree Course, Rs.15000.00 (Hostel)
(7) Rs.15000.00	P.G. Course Rs.20000.00 (Hostel)
(8) Rs.15000.00	Medical, Engg, MBA Rs.20000.00 (Hostel)

- Maternity benefit scheme: Rs. 3,000 is provided for nutrition of child and mother and to compensate for loss of wages due to maternity leave.
- Accidental death benefit scheme: Rs.2,00,000 for the death due to accident during work and Rs. 1,00,000 - compensation to the permanently disabled worker.
- Funeral benefit scheme: Rs.2,000 accidental and natural death.
- Medical assistance: 75% of the expenses limited to Rs. 1,00,000 for diseases to heart, kidney, cancer and T.B.
- Housing scheme: Rs. 20,000 down payments for purchase of house under govt. housing scheme. Needs 3 years membership of the worker to avail this scheme.

Training and assistance: stipend of Rs. 1500 per month and Rs. 5000 for the purchase of instruments. The period of training would vary according to the trade which would be decided by the ITIs. Along with these 7 schemes, the board has proposed Rashtriya Swasthya Bima Yojana (RSBY) a health insurance scheme for the construction workers. The scheme provides cashless health benefit (up to Rs. 30,000 annually) to a family of five using smart card for which the premium of Rs.800 which would be contributed by the board.

All the schemes (mentioned under this section) of the Board are well planned and relevant for the construction sector. Efforts have been made while planning these schemes for not overlapping but supplementing with other state government schemes. For example, there is maternity benefit scheme where the registered woman beneficiaries gets Rs.3,000 towards nutrition of child and mother and also compensation for loss of wages. At the state level if the women workers belong to BPL card holder category, then they are eligible for free delivery under the Chiranjeevi scheme (details are given in section 5.4). Though these two schemes

are related to maternity issues, the benefits are different (not overlapping) and are useful for the beneficiaries. Another example is, the board has a children's education assistance scheme whereby two children of a family get an assistance of Rs. 250 to Rs. 20,000 according to the tier of schooling, whereas in the state there is scholarship for female sportspersons which is based on performance at sports and this is also only for female child. In providing this scheme, the board takes an affidavit from the school officials in order to avoid giving the benefits to the same children who are getting benefits from more than one source state funds. As the amounts are nominal under this scheme it is not worth spending resources on monitoring these aspects. It is also a debate that as a BPL card holder the beneficiary is eligible to avail relevant official schemes and as construction worker he deserves to avail of the schemes under the Board which are specially designed and funded by the money collected through Cess from the construction sector itself.

There are chances that the Board can converge with the existing official schemes to improve welfare and social protection measures for the construction workers. For example, in order to provide crèche facilities for children, linkages would be made with the existing mobile Anganwadi centres run by the department of Women and Child Development. In order to provide health insurance to the construction workers, they could be linked with the official scheme of RSBY.

The functions of the board include: issuing the beneficiary identity card, renewing it annually and maintaining the record thereto, disbursing the welfare funds amount through the various welfare/social security schemes to register beneficiary as per the fulfillment of condition of the scheme declared by the state government, preparing a budget, making the annual account audited, arranging the board meeting and other committee meetings like state advisory at regular intervals, submitting the annual (administration) report to the government, execution and utilization of funds, visiting the building and other construction sites for verifying whether registered beneficiaries are employed, checking the record thereto, forming the various new welfare schemes and surveying as per requirement for the said beneficiary workers.

All construction workers, aged between 18-60 years working in building and other construction work who have worked for a minimum of 90 days in the period of 12 months and have certificate of the same can register under the Board. Then the Board provides ID card and workers are eligible to avail the welfare schemes under the Board. Three wings of Labour department i.e. Directorate of Industrial Safety and Health (DISH) (through industrial safety

and health officer), Labour Commissioner (LC) (through principal employers and contractors while registering their construction sites and also through labour inspectors) and Rural Labour Commissioner (RLC) (through rural labour officers) support the Board in getting the construction workers registered under it.

While registering with the board, a construction worker needs to provide the following documents:

- A fee of Rs. 100 which includes Rs.25/ registration and Rs 75 annual renewal fees, which should be paid through bank challan
- Age proof (election ID card, ration card, driving license, certificate of marks sheet awarded by Board or University, Birth certificate, a certificate from a medical officer of government dispensary, primary health centre)
- Three copies of a passport size photograph
- Proof of status as a building worker for at least 90 days during the preceding 1 year given by the employer, government labour officer, chief executing officer of the gram panchayat or the municipal body, taluk development officer. Till 30<sup>th</sup> Dec 2008, the trade unions were given permission to provide 90 days certificate, but since differences cropped up between the board and the trade unions on 31<sup>st</sup>, 2008, the board has declared that the trade unions are no longer eligible to provide the 90 days certificate.

While applying for any one of the 7 schemes, an affidavit from the school or hospital saying that the applicant has not availed any other relevant state government scheme is needed along with the above documents.

Though the implementation of the Act started in 2003 and the Board was formed in 2005, it started working effectively only from 2008 onwards. Within a short period of time and without having enough staff, the Board using the existing structures of LC, RLC and DISH, was able to achieve registration of workers and make them avail of schemes. Some of these achievements are given in Table 6.



**Table 6: Achievements of the Board as on 31<sup>st</sup> August, 2009**

Cess collected	Rs. 131.88 crores
No. of applications received for registration	50,378
No of beneficiaries registered and received ID cards	35,873
No. of beneficiaries who received benefits	925
Amount of benefits disbursed	13.61 lakhs

Table 6 shows that as on 31<sup>st</sup> August 2009, the board received 50,378 applications from construction workers, of which 35,873 (70%) were registered and the remaining 14,505 (30%) applications were rejected due to absence of necessary documents such as 90 days certificate and affidavit from schools. The sector has 12 lakh construction workers of which only 35,873 have been registered with the Board. This represents a mere 2.99%. Out of 35,873 construction workers registered with the Board, only 925 (2.6%) received benefits under the following three schemes: education assistance, maternity benefits and compensation in case of fatal accidents.

Along with these quantitative achievements, the Board made several changes so that the implementation at the grassroots level would be smooth; some of the changes include:

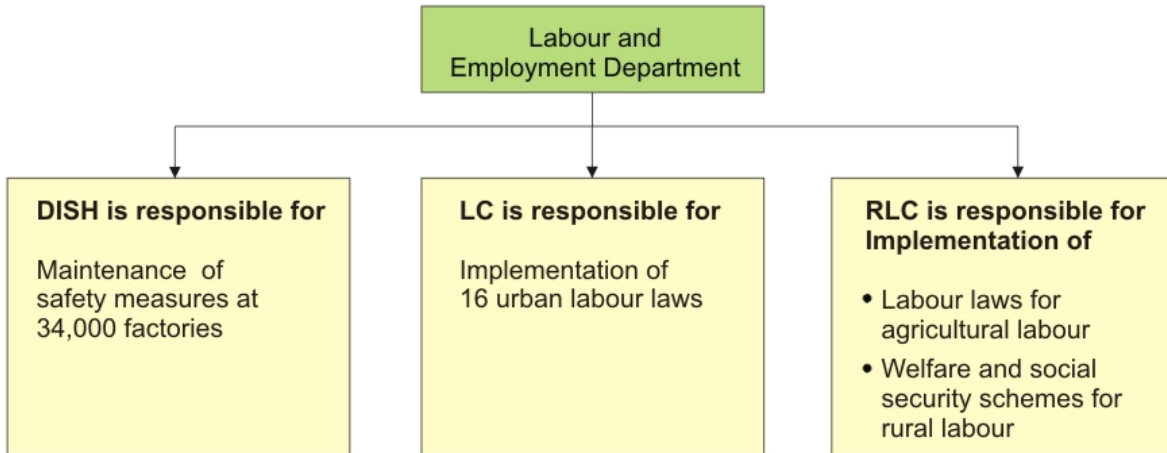
- Since 2005, the Board conducted 34 awareness camps for construction workers in different villages of Ahmedabad, Vadodara, Surat, Rajkot, Valsad, Kalol, Gandhinagar and Dahod districts. Newspaper advertisements (twice a year) and small pamphlets were made regarding the schemes in order to create awareness among the workers.
- To make it easy for the workers to get the 90 days certificate, in addition to the employer permission was given to the government labour officer, CEO of gram panchayat, and taluk development officer to issue the certificate.
- The board has made efforts to improve the existing schemes. For example, in the case of accidental death benefit scheme, the period of availing the scheme benefits has been increased from 7 days to one month, after the death of a worker. With relation to the education assistance scheme, workers can avail of the benefits even up to 3 months after the admission of child in the school. These changes were made to give enough time to the worker to avail these schemes.

- The Board conducted 10 medical camps for medical checkup of building workers at different places of work. A total of 3897 workers were examined in these camps.

**Issues in implementation of the Act:** There are certain issues that hinder the implementation of this Act, some of these include:

- **The responsibility and the implementation of the Act is not vested in any one organisation:** DISH sees that their role is important in monitoring safety and health measures of 34,000 factories. Gujarat has over 34,000 factories, more than any other state, so the current staff of 55 engineers of DISH is over burdened with critical inspection of these 34,000 factories (refer Figure 9). DISH sees that the Labour Commissioner (LC) and Rural Labour Commissioner (RLC) are involved in looking after the implementation of labour laws and are also involved in collecting the Cess; it is easy to have the board in any of these wings. Whereas LC sees that their staff is overburdened with implementation of 16 labour laws and sees that RLC has a complete structure from state to village level, it would be easy for them to identify and access migrant construction workers at their source. RLC is comfortable in helping the board but not interested in taking up the complete responsibility for the implementation of the Act, as they have to work on behalf of the labourers in rural areas and most of these (inter and intra state) migrant construction workers are working in urban areas. Due to lack of full fledged staff structure, the Board is handicapped in achieving progress with respect to the implementation as well as improvement of the Act and is dependent on DISH, LC and RLC. The principal employers and contractors of the construction sector are busy in completing the projects but are not interested in spending their time for the welfare of the workers. With respect to transparency, involving 2-3 wings such as DISH, LC and RLC in the implementation of the Act is certainly good strategy, but there has to be clarity regarding the roles of each wing in order to have accountability in the implementation of the Act.

**Figure 9: Responsibilities of Wings in Labour Department**



**Figure 10: Facts of Establishments: Gujarat**

▪ **Under-staffed Government**

**Departments:** The Board has only 2 full time staff and it is completely dependent on LC, RLC and DISH to implement its functions. At present the board is in the labour wing of DISH. DISH itself faces shortage of staff to implement its own functions.

In Gujarat 3500 establishment are eligible for registration under the BCWA. Every establishment has 1 to 10 sites / works. By calculating average 3 sites for every establishment total 10500 sites are working. Every site shall be inspected twice in a year. So a total of 21000 inspections are required to be done in a year.

Source:  
<http://labourandemployment.gov.in/schemes/safety-health-21.htm>

For example, at present there are 34,000 registered factories in Gujarat. There is a need of 226 inspectors to inspect these 34,000 factories @ one inspector for 150 factories as per the guidelines provided by the ILO. According to this requirement, DISH would need 171 more inspectors. The proposals for recruiting 38 posts for the board and 25 inspectors posts possessing Civil/Structure Engineering qualification has been send to GoG in 2008-09; however, due to state policy decisions, these proposals have not been accepted. Along with this shortage, another constraint is that the staff members at DISH are qualified mechanical or chemical or electrical engineers who cannot implement/monitor the board's activities as they do not have an expertise either in Civil/Structural Engineering or social welfare activities.

- **Lack of initial capital for the Board to function effectively:** According to the Act, *“The Board cannot incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five percent of its total expenses during that financial year.”* As the Board has only disbursed Rs.13.61 lakhs, 5% of this is a paltry amount (Rs.0.68 lakhs). Thus, the Board is unable to hire more staff and then due to the lack of staff, the Board is unable to effectively carry out its functions. There is a need for the state to put in initial capital to provide the staff and structure for the Board.
- **Status of NGOs and Trade Unions:** There are few strong and committed NGOs and trade unions working for the welfare of migrant construction workers, with some notable exceptions like SEWA, and Bandhakam Mazdoor Sangathan. In 2008, GoG involved trade unions, especially SEWA, in planning and developing the state building and other construction workers welfare Board. It also permitted the trade unions to give 90 days certificate to the workers. By 2009, the relationship between the Board and the trade unions has broken. The unions which were permitted to grant the 90 days certificate felt that the enrolment had increased only because of their efforts, and that the government could not, by itself, have achieved high enrolments. The government, on the other hand, felt that the registrations had been done without ascertaining the status of the workers. Given such mistrust, the permission was withdrawn in 2009. The Board has stopped involving the trade unions in the process of the registration of the workers and implementation of the schemes. Local NGOs and trade unions need to work with migrant construction workers in creating awareness about labour laws, the Board and its welfare schemes, and empower workers for demanding their rights of registering, renewal and availing the welfare schemes.
- **Lack of monitoring:** RLC and DISH at the district level are maintaining the data on the beneficiaries that are passing through RLC and DISH. But due to lack of data operators, the Board does not compile the state level data regarding the number of applications received and the number of members who have availed schemes under the Board.

**Figure 11: A Quotation of a Worker**

- **Lack of awareness:** FGDs and personal interviews with contractors (12 out of 27 contractors) showed that lack of

“We would immediately register ourselves if we are told how to. With this salary and no savings, any assistance is of great help.”

- Vishnu Bhai, migrant from Dahod

awareness among contractors and construction workers about the Board and its benefits. This is the main reason for the workers not being registered with the board. The contractors know that they have to pay Cess according to the Cess Act 1996, but they are not aware of the fact that the Cess is supposed to be utilized for the welfare of the workers.

- **Difficult to get 90 days certificate:** Workers are required to obtain a 90 days certificate from their employers during the time of registration and renewal. Interviews with contractors, representatives of unions, and NGOs revealed that getting the 90 days certificate from the employer and contractor is difficult due to few policy reasons. For instance, once the daily wage labour becomes regular labour, the employer has to follow the policy of providing ESI and PF which becomes a liability for the employer. The Board has relaxed the rule regarding getting the 90 days certificate from the labour inspector / taluk development officer / CEO of gram panchayat. However, this has not really solved the problem because in the registration form the worker has to mention under which employer he has worked for the last 90 days and usually the workers do not know either the principal employer or contractor's name. They are only aware of the name of their direct employer who in most cases is the sub-contractor or thekeddar.

#### Figure 12: Overview of the BCWA

- **Renewal of membership:** Most of the workers do not show any interest in renewing their membership with the board, as they have not received any benefits from the board (only 2.6% of them received the benefits), and those who received the benefits found that it is not commensurate with their expenses, the amount which they spent on process of registration and availing the scheme. The workers also need to pay Rs. 75 as renewal fees, which is high when compared to other states where the renewal fee is between Rs. 10 and Rs. 20. For example, if the worker wants to avail education

The BCWA has been set up as a comprehensive legislation for regulating the safety, health, welfare and other conditions of service of the building and other construction workers.

At State level, BCWA rules were framed in 18<sup>th</sup> August 2003 and it is implemented from June 2005.

As on October, 2009 the Board implemented 7 welfare schemes- Children Education Assistance, Maternity benefit scheme, Accidental death benefit scheme, Funeral benefit scheme, Medical assistance, Housing scheme and Training and assistance.

Issues in implementation of the act- no takers for the responsibility and the implementation of the act, under-staffed government departments, lack of awareness, difficult in getting 90 days certificate, renewal of membership and lack of monitoring.

assistance for his daughter/son who is studying in the 8<sup>th</sup> standard (Under education schemes 5<sup>th</sup> to 9<sup>th</sup> standard gets Rs. 500/year), he has to get the 90 days certificate, age proof, 3 passport size photos, affidavit from the school saying that her son/daughter did not received any assistance under any other state government scheme etc. After sanctioning the scheme the worker has to travel from the village to the district office of the DISH to receive the cheque of Rs. 500. For all that this long process involves, the worker has to spend about Rs. 200-300 and also lose 3-4 days' wages. For some of the schemes such as the accidental death scheme, the worker has to get a certificate from the employer/contractor that the accident happened while he was working on the site. The employer would be unwilling to give such a certificate in circumstances where he is not maintaining and providing the safety measures that are legally required of him. An overview of BCWA is given in Figure 12.

#### **b. The Building and other Construction Workers' Welfare Cess Act, 1996**

At the central government level, this Act is has been set up to provide for the levy and collection of a Cess on the cost of construction incurred by employers with a view to augment the resources of the Building and other Construction Worker's Welfare Board constituted under the BCWWCA Act, 1996.

The Act applies to every establishment which employs, or had employed on any Day of the preceding 12 months, 10 or more building workers in any building or other construction work.

Under this Act the Cess will be collected at a rate not exceeding 2% but not less than 1% of the cost of construction (excluding the land cost) incurred by an employer. In case of government or of a public construction work, the Cess will be deducted at source; whereas with relation to private contractors, the Cess will be collected from the principal employer by the relevant local authority as an advance at the time of plan of sanction of the construction work. The details are given in Annexure 3.

**Figure 13: Overview of BCWWCA**

As per the building and other construction workers Welfare Cess Act, 1996, on 3<sup>rd</sup> January 2005, GoG appointed the DISH, as “Appellate Authority” for the implementation of the building and other construction workers Cess Act in Gujarat. Under this Act, GoG appointed Cess collectors and assessing officers, and this group includes:

- All heads of the departments of the government Gujarat in relation to a building and other construction work of government.
- All executive heads of the public sector undertaking in relation to a building and other construction work of public sector undertaking.
- All executives heads of the local authorities except gram panchayat and Nagar panchayats where an approval of the building and other construction work by such local authority.
- All district development officers of the State for the building and other construction work not covered under 1 to 3 within the limits of their jurisdiction.

The BCWWCA was set up to provide for the levy and collection of a Cess on the cost of construction incurred by employers with a view to augment the resources of the Building and other Construction Workers’ Welfare Board constituted under the BCWA.

In case of government construction works, the Cess is collected at the rate of 1% of total construction cost at source.

In case of private builders, Cess is collected at the rate of Rs.30 per square metre irrespective of the construction cost and location.

As on 31<sup>st</sup> August 2009, the state had collected Rs. 131.88 crores as Cess. One of the main issues in implementation of the Cess is collected at a flat rate of Rs.3000 per square metre irrespective of the actual cost of construction in that area. This tends to benefit the principal employers and has been a cause of distress with the workers’ unions.

Thus based on the type and location of the construction work, the state needs to re-analyze the cost of the construction and fix the Cess accordingly.

In case of government construction works, the Cess is collected at the rate of 1% of total construction cost at source. In case of private builders, Cess has been calculated at Rs. 30 per square metre by averaging the cost of construction across all sites at Rs. 3000 per square metre. As on 31<sup>st</sup> August 2009, the state has collected Rs. 131.88 crores as Cess. This amount is with the state revenue department and would be released as per the financial proposal given by the board. Out of this, 13.61 lakhs (10%) has been used towards implementation of welfare schemes for the construction workers. Except Kerala the utilisation

of Cess is very low, for example: until 2008, 15 states (Delhi, Haryana, Rajasthan, Kerala, Gujarat, Bihar, Karnataka, Andhra Pradesh, Tamil Nadu, Himachal Pradesh, Punjab, Orissa, Mizoram, Maharashtra and Uttarakhand) collected Rs. 1,353.92 crore as Cess from the cost of construction activities in their areas but spent only Rs. 305 crore (23%) for the welfare of workers. In Kerala the success of the implementation of the Board schemes is mainly because of existing strong unionization. An overview of the act is given in Figure 13.

One of the main issues in implementation of the Cess is that the cost of construction is fixed at a much lower level than the cost actually incurred. The Cess of Rs. 30 per square meter has been fixed, based on fixed construction cost of Rs. 3000 per square meter. The construction cost can however be much higher than Rs. 3000 per square metre. This is due to vested interests of employers, who save Cess when per unit costs are kept low. The cost of construction varies according to the employers and also location of the construction (towns and cities). Based on the type and location of the construction work, the state needs to analyze the cost of the construction and fix the Cess rates accordingly.

**c. The Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979**

The inter-state migrant workmen are generally illiterate, unorganised and normally work under extremely adverse conditions. In view of these hardships, some administrative and legislative arrangements, both in the state from where they are recruited and also in the state where they are engaged for work, are necessary to secure effective protection against their exploitation. This Act was thus introduced to regulate the employment of inter-state migrant workmen and to provide for their conditions of service and for matters connected therewith.

It 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 and to every contractor who employs or who employed five or more inter-state migrant workmen on any day of the preceding twelve months.



**Figure 14: Overview of the ISMWA**

Under this Act, every single inter-state migrant workman is entitled to payment of wages during the period of journeys on duty and is also entitled to a journey allowance for outward and return journeys from the place of residence in his state to the place of work in the other state. The employers are bound to provide the workers the following facilities: regular payment of wages, equal pay for equal work irrespective of sex, ensuring suitable conditions of work, providing and maintaining

The ISMWA was introduced to regulate the employment of inter-State migrant workmen and to provide for their conditions of service and for matters connected therewith.

Even though this Act was introduced for the welfare of the inter-state migrant workers, in practice the Gujarat government policy requires the contractor to give a guarantee that of the labour force he employs on his site, 85% will be from within the state.

Another problem is that since the Cess is collected from state government construction work and also private buildings constructed within state; it is felt that the Cess money should be utilized for the welfare of the intra state migrants only.

There is thus a need for clarity on whether the state of origin or state of destination is responsible for providing the welfare schemes for the inter-state migrant construction workers.

suitable residential accommodation to such workmen, providing the prescribed medical facilities to the workmen free of charge, in case of fatal accident or serious bodily injury to any such workman, reporting the same to the specified authorities of both the states and also the next of kin of the workman.

Out of 12 sites visited, only one contractor was familiar with the Inter-state Migrant Act and in order to avoid the implementation of the Act, the company is employing labourers only from Gujarat state. In the remaining sites, the main contractor has given the work to sub-contractors who are not familiar with the Inter-state Act and have in-turn hired workers from other states.

Bajaj (2004) and Pandit (2004) narrated that in Orissa and Himachal Pradesh inter-state migrant labour were recruited from various parts of the state through contractors or agents for work in large construction works and were made to work without any fixed hours as well as all the days in a week under extremely bad working conditions. No medical facilities and over time payment were provided to these workers. The employers did not implement any of the laws with respect to inter-state migrant workers such as payment of minimum wages, maintenance of registers, working hours, over time, weekly days of rest, displacement allowance and payment of compensation for injury and fatal incidents.

**Figure 15: A Copy of Guarantee Letter**

There are many barriers in the implementation of the Act. In case of registration of the workers to the Building and other Construction Workers Welfare Board, the bias is in favour of the intra-state workers. This is especially so due to the fact that those who are registered

**Guarantee letter to be submitted by the contractor as per General Resolution No. G.R./2003/157/C.L.A./1098/2308/M3 dated 7-11-2003 of the State Govt. under Contract Labour (Regulation & Abolition) Act 1970**

I the undersigned contractor \_\_\_\_\_ declare that I have applied for new license /License No. \_\_\_\_\_ / received on date \_\_\_\_\_ / applied for renewal under the Contract Labour (Regulation & Abolition) Act, 1970 for the work of Organization \_\_\_\_\_ . I hereby give guarantee to employ 85 % local persons as per the instructions of Government's G.R. dated 7-11-2003.

Date:

Name & sign of contractor

through RLC are completely from Gujarat state itself. This is clear from the fact that as on August 2009, all the 35,873 workers registered with the Board are only intra-state migrants. The state policy is favorable to local workers (intra-state labour); for example, in one of the guarantee letters to be submitted by the contractor, it is mentioned that the contractor is supposed to give guarantee that he would employ 85% of the local persons, details of the certificate is given in Figure 15.

**Figure 16: Overview of Legal Act**

The state also believes that since most of the Cess is collected from state government construction work and also from private buildings constructed within state; so the Cess money has go to the welfare of the intra-state migrants. This mind-set needs to be challenged, as those who contribute to work in the state, are entitled to rights and benefits from that state. An important aspect is that there should be clarity regarding whether the source state or the destination state is responsible in providing the welfare schemes for the migrant construction workers.

This was amended in 1994 has been set up to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

The free legal services are available at Taluk, district and state level through relevant legal service committees.

Most of the construction workers however prefer to make settlements on site at the contractor level rather than filing petitions in court. This is because they fear that they have to spend a lot of time and money on availing legal assistance.

Workers are not aware that free legal services are available to them at the taluk, district and state level. There is thus need to publicize about this Act.

According to Bajaj (2004) and Pandit (2004), one of the reasons for not enforcement of the act is the small number of inspections due to lack of adequate inspection machinery and also the inter-state migrant workers do not cooperate with the inspectors due to fear of losing jobs. The ISMWA is applicable only if there are more than 5 inter-state migrant workers. So, the sub contractor who hires the workers distributes these workers to different contracts and keeps the number of inter-state migrant workers less than 5 and thus the sub contractor avoids the applicability of the Act.

**d. The Legal Services Authorities Act, 1987.**

The Legal Service Authorities Act, 1987 which was amended in 1994 provides free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities and organise Lok Adalats to ensure that the legal system promotes justice on a basis of equal opportunity. It is implemented in all states except in the state of Jammu and Kashmir. Under this Act the people can avail legal services free of cost. The eligible people include: people belonging to scheduled castes and scheduled tribes, women or children, victims of mass disaster such as flood, drought, earthquake or industrial disaster, people with annual income of less than Rs. 9000 to Rs. 12000. The free legal services are available at the taluk, district and state levels through relevant legal service committees. Along with providing legal services these authorities are also involved in creating legal awareness among citizens.

In the construction sector, most of the disputes between the contractor and worker are settled in their premises, if it not resolved there then at the most it goes to the labour department where these disputes are settled. In FGDs most of the workers said that though they were not satisfied with the resolution results of disputes, they preferred to compromise settlements in the construction site itself with the contractor; and that they did not want to file any petition in the court. This was mainly because they fear that they would not get any work in future and also believe that they would have to spend lot of time (6 to 12 months) and money in attending court proceedings. The workers are also not aware of the fact that free legal services are available at the taluk and district levels.

The study results reflect Millennium Development Goals 1, 2, 5 and 8: eradication of extreme poverty, achievement of universal primary education, improvement in maternal health and development of global partnership for development. The findings show that migrant construction workers lack access to decent employment and basic living conditions,

education, health and subsidized food from PDS, pre and post maternal care. Lack of access to these basic living and working conditions is mainly due to lack of awareness among migrant construction workers about entitlements. This prevents them from claiming what is due to them as their right. They usually do not have a voice to claim their rights because of existing contracting and sub contracting systems.

Another important issue is that due to the fact of migration, the migrant construction workers lose their identity and are not able to avail of their entitlements as a citizen of the country, either in the source or destination state. The study shows that there is a bias against inter state migrant workers in providing the employment and also welfare measures. Therefore, employment opportunities and livelihood conditions of the unorganized sector which are important components of human development are critical.

This study examines all the relevant components of human development i.e access to basic requirements, state entitlements and resources of unorganized laborers who are a high risk and marginalized group. However, a more in depth study would be required to compare human development impacts on various criteria.

## **7. Recommendations**

Based on the findings of the working and living conditions of the workers as well as discussions held with the migrant construction workers, various enforcement officials, trade union members and NGOs, the study recommends changes in both policy and implementation of laws and regulations. At the national level, it is important to establish the rights of inter-state migrant workers. These migrants have no access to subsidized food or basic health and education services in the destination state. The receiving states must be held responsible to ensure the protection of rights of migrant workers. They can coordinate with source states for certifications, cost-sharing, or reciprocal arrangements. Such coordination responsibilities must rest with the state, if neglect of inter-state migrants and their effective dis-enfranchisement has to be addressed. Details on these recommendations are given in the following section.

## 7.1 Policy Recommendations

In order to improve the status of implementation of the existing Acts relevant to the construction workers few changes are recommended at the state and central policy level. Some of these include:

**Figure 17: Recommendations for State Policy**

**Mandatory for the principal employer to register all the workers on his site:** It should be made mandatory for the principal employer to register all the workers working on his site with the labour department. For any change in labour numbers, the principal employer must notify the department within 2 weeks or else be penalized.

- Make it mandatory for the principal employer to register all the workers on his site
- Do not discriminate between inter and intra state migrants.
- Provide benefits of Board schemes to all construction workers regardless of origin state
- Establish a single-window system for registration of workers with the labour department and Board
- Have Workers' representation on the Board
- Reassess and revise the Cess rate
- Reduce renewal fees for registration
- Redesigning and introduction of new schemes
- Setting up of the social protection service centres in the Board and RLC
- Issue of Job cards to the workers

**Single window system for registration of workers with the labour department and Board:** The state needs to set up targets for registration of workers with the Board (for example by March, 2012 state should register 5 lakh migrant construction workers) and develop strategy to achieve these targets. One of such strategy is that In order to simplify the dual registration with the Labour department as well with the Board, it is recommended to introduce a single window system wherein when the principal employer registers his workers with the labour department, the workers automatically get registered with the Board as well and gets an ID card. This would save a lot of administration and logistic costs, while also ensuring that maximum number of construction workers get registered with the Board. The labour department can collect the registration fees of the Board and pass it on to them.

**Clarity on responsibility of providing welfare schemes to inter-state construction workers:** An important aspect is that there should be clarity regarding whether it is the source state or the destination state that is responsible in providing the welfare schemes for the migrant construction workers.

**Reassess and revise the construction cost:** One of the main issues in implementation of the Cess Act is that calculation of Cess from private projects is fixed at Rs. 30 per sq.mt (@1% of total construction cost which has been calculated at Rs. 3000 per sq.mt) which in

most cases is less than the cost actually incurred. The cost of construction actually varies according to the employers and also location of the construction (towns and cities). So it is suggested to reassess and revise the construction cost according to the zones and present market rates and collect the Cess accordingly.

**Figure 18: Recommendations for National Policy**

**Reduce renewal fees:** At present the construction workers Board collects Rs.25 as registration fees and Rs. 75 per year as renewal fees, which is high compared to other states (Tamil Nadu, Kerala

- Make it mandatory to provide welfare schemes to migrant workers from different states
- The destination states should be made responsible for provision of basic services to migrant workers (education, health, water)
- Provide access to subsidized food to all BPL families, regardless of which state they originate from.

and Andhra Pradesh) where they collect Rs. 25 towards registration and Rs. 10 as annual renewal fees. Need to reduce the annual renewal fees from Rs. 75 to Rs. 10 which would motivate workers to renew their registration with the Board.

**Redesigning, promoting and introduction of new schemes:** After assessment of the current schemes and discussions with the relevant stakeholders, it is suggested to redesign some of the existing schemes and introduce a few new schemes.

Redesigning of housing scheme: The Board currently offers a housing scheme wherein it makes a down payment of Rs. 20,000 for the purchase of a house for each beneficiary under the government housing scheme. It is suggested to increase this amount to cover the entire cost of the house upto a maximum of Rs. 50,000 to compensate high inflation rate of construction materials.

Promotion of skill training scheme: In the FGDs, most of the workers, especially men, were keen on improving their skills in carpentry, electrical wiring and plumbing. But they are not able to utilize the skill upgradation scheme because they are either not aware of the scheme or they are not eligible as the scheme is available to only those workers who have been registered with the Board for the last 3 years. With this skill improvement the construction workers can increase their earning capacity by up to 50%. Hence, it is suggested that all registered members be eligible for skill upgradation, regardless of length of membership. This is in order to increase these workers' earnings, enable them to continue in the construction sector, and to motivate them to renew their membership.

Though there is demand for skill training among workers, due to lack of awareness, none of current beneficiaries availed the skill training scheme. There is thus a need to create awareness about the scheme and facilitate the process of linking the workers with training institutes so that the workers acquire market oriented skills and improve their livelihoods.

New Schemes:

New health insurance scheme:

The Board currently has schemes for compensation of death accidents and medical treatment for diseases of heart, kidney, cancer and T.B. There is no scheme to cover minor and major injuries such as fractures and also for diseases like malaria, dengue where the worker spends a lot of money to meet these medical expenses. In order to reduce these gaps in the existing schemes, there is need to cover construction workers under a health insurance scheme: Rashtriya Swasthya Bima Yojana which is cashless health benefit (upto Rs. 30,000 annually) designed by the GOI for the unorganized workers and BPL families. All the workers could be covered under this scheme at the time of registration with the contribution of annual premium amount of Rs. 800 from the Board.

New financial assistance for marriage expenses:

Most of the workers expressed that the big expenses, after basic needs, include medical and marriage expenses. Depending upon the relationship with the thekedar (sub contractor) the workers take loans from him to meet marriage expenses. The workers also take loans from the local money lenders in their source village to meet such expenses. This loan amount ranges between Rs. 5,000 to Rs.10,000. Introducing financial assistance scheme of Rs. 5,000 towards marriage is helpful for the workers.

New scheme for Pension:

A registered member of the Board who has been working for not less than 3 years, shall on completion of 60 years be eligible for pension. The amount of the pension shall be one hundred and fifty rupees per month. An increase of 10% can be given for completed years of service beyond 5 years.

**Setting up of the social protection service centres in the Board and RLC:** It is recommended to set up social protection centres within the Board and RLC which would provide information on jobs rights awareness and other related information. A percentage of

the total budget of the Board can be set aside to provide these services. This type of information would help to reduce poverty and vulnerability by promoting efficient labour markets, reducing exposure to risks and to providing protection from hazards and loss of income. For e.g., due to the nature of migration, most of the workers do not know the local payment rates for their work, which leads to them working at lower daily wage rates. Through these centres they would be made aware of their wage rates.

**Figure 19: Best Practice to Access PDS**

**Issue of Job cards to the**

**workers:** There is a need to give job cards (successfully implemented in NREGA) where the source address, skills of the migrant worker, attendance of the worker and amount of the payment is entered. It would immediately help to solve the problem of

In Maharashtra, for the first time, DISHA Foundation, an NGO, has been able to negotiate with state PDS and get temporary ration cards for the migrant workers who can access food at subsidised rates anywhere in the state. This help is at present for intra state migrant workers, and now DISHA is working towards inter-state coordination so that even inter-state migrants can avail temporary ration cards (Pallavi, 2005).

Source: Food Passport' for Migrants at <http://www.boloji.com/wfs4/wfs483.htm>

construction workers in getting 90 days certificate and also ensure that the worker gets minimum wage.

This job card would act as an ID card as well as a ration card. Through this card, the migrant construction workers can also avail of provisions from local Public Distribution Systems (PDS). In order to avoid duplication, the original ration card of the workers can be handed over to local panchayat in their source villages. This is a policy recommendation that would need to be taken up at the national level as it applies across all states. There is need to learn from existing best practices (as shown in Figure 19) to improve the working and livelihoods of the migrant construction works.

Another way to deal with the issue of getting 90 days certificate is through ensuring that all construction workers are issued Unique ID number under the project of getting “Unique ID (UID)<sup>2</sup>number for all citizens” which is going to work as a permanent identifier of every

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<sup>2</sup> The government of India agreed the proposal of use multi-application smart cards with unique identities (UIDs) for citizens to facilitate easy verification, availing of government or private services, help welfare programmes reach intended beneficiaries and for serving as basis for e-Governance. The



individual. This project is going to be implemented by 2011-2012. UID will help to solve the issue of identification, however the condition of 90 days of work will still need to be certified, and the department will have to take support from NGOs and trade unions, without which the department has neither the human resources, nor the system in place to register all construction workers.

**Access to subsidized food:** The discussion with the workers at the various construction sites revealed that the migrant workers spent a large portion of their earnings on food as they have to buy at non-subsidized market rates, which they find very high. In order for the intra and inter state migrant construction workers to access subsidized food, it is suggested to introduce mobile fair price shop facilities on the construction site under the PDS. This facility would be made available for the workers who hold job cards and have handed over their original ration cards at the source villages. For this central level policy is required as the inter state workers has to avail this services. Ensuring migrant construction workers get their rights and entitlements require changes at many levels. The first and foremost need is that national systems such as PDS need to provide access to subsidized food to people regardless of their location.

## ***7.2 Recommendations for Implementation of Provisions***

In order to cover the maximum number of beneficiaries, there is a strong need for improving the implementation of the various Acts. For this recommendations for implementation of provisions have been made as under:

**Create awareness about the Board and its welfare schemes:** Lack of awareness about the building and other construction workers Board and its schemes among workers, contractors, sub contractors is one of the main reasons for ineffectiveness of the implementation of schemes under the Board. There is thus need to create awareness for effective implementation. This can be done by the Board in the following manner:

### Workers:

- Providing regular advertisements in local news papers, radio and television
- Displaying posters and painted Boards at the construction sites, various labour chowks

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Unique Identity (UID) project would assign a UID number to each individual in the country that would remain a permanent identifier right from birth to death of the individual.

- Conducting labour camps on the construction sites and
- Imparting information on the Board schemes at the time of conducting the weekly safety trainings
- Encouraging organization building among workers, for instance by joining existing unions or starting new unions in the construction sector

Employers and contractors:

- Through conducting awareness workshops and meetings
- Integrating the terms and conditions of the Acts into their contract formats (as mentioned in section 8).

In order to carry out the above, it is suggested that the Board include awareness expenses in the annual budget of the Board.

**Figure 20: Implementation Recommendations**

**Develop training material on laws:**

In order to create awareness among workers there is need to develop simple training materials on the relevant existing laws for the construction workers. Prepare and deliver one or two day modules on laws applicable for all the construction workers. The existing

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| <ul style="list-style-type: none"> <li>• Set up Board as a separate functionary</li> <li>• Appoint full-time staff for the Board</li> <li>• Setup MIS for the Board</li> <li>• Involve all stakeholders in monitoring and implementation</li> <li>• Establish convergence of official schemes with Board schemes</li> <li>• Hold contractors and sub contractors responsible for well-being of workers</li> <li>• Create awareness about the Board and its welfare schemes</li> <li>• Develop training material on laws</li> </ul> |
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structures of the state legal services authorities would be used to conduct these trainings on legal aspects.

**Involve all stakeholders in monitoring and implementation:** Need to involve all stakeholders such as builders associations, principal employers, contractors, sub contractors, workers, trade unions, NGOs and training institutions (Mahatma Gandhi Labour Institute) in creating awareness among the workers, process of implementation and monitoring of Act. Dynamic and vibrant social institutions like trade unions and NGOs can contribute to strengthen the migrant construction workers by organizing them into aware and empowered people institutions.

Along with these stakeholders, sakhi mandals and youth can be recruited as agencies to create awareness and for registration of building and other construction workers as beneficiaries with Board. In order to engage and motivate the agencies, they can be paid some incentives.

**Convergence of official schemes with Board schemes:** In order to provide crèche facilities for children, linkages should be made with the existing mobile anganwadi centres run by the Women and Child Development Department. In order to provide health insurance to the construction workers, the workers can be linked with official scheme of RSBY.

**Either full-time staff for the Board or setting up Board as a separate autonomous functionary:** There is a need to have 6-7 (secretary, accountants, senior clerks, 2 data operators) full time staff in the Board to coordinate among the LC, RLC and DISH to implement and monitor the functions of the Board. However, given the clause that the Board cannot spend more than 5% of total expenses on salaries and allowances, it is recommended that the state allocate an initial capital to provide for the staff and structure for the Board.

As the RLC has full fledged structures at district and taluk level, it can take the responsibility of registering all the construction workers (intra state) at their source villages. Whereas the LC and DISH can take the responsibility of registering workers at destination i.e construction site which can also cover inter state migrant construction workers.

Another option is that the Board can operate as a separate autonomous functionary structure at the state, district and taluk level by appointing social workers as field staff involved in implementing at the ground level. The state level structure can then coordinate with the district and taluk level structures.

**Setting up MIS under the Board:** At present there is no consolidated data on the number of members registered, availed schemes, renewed etc. There is need to set up a good MIS in order to have the data in place which would help in regular monitoring on these aspects.

**Holding contractors and sub contractors legally responsible for worker well-being:** Currently, it is only the principal employer who is responsible for the registration of the workers with the labour department and is accountable for implementing the relevant construction worker laws. There is thus no accountability by the contractor and sub contractor, who are actually the ones who interact with the workers. It is thus suggested that in order to ensure the

workers' wellbeing and welfare, the principal employer enters into a legal contract with the government wherein he declares that, in addition to the technical requirements, he will be providing all the welfare and protection entitlements to all the workers employed on that construction site. The principal employer may further sign another contract with his contractor, legally binding him to provide some/ all of all the facilities; thus making them both responsible. The relevant elements (minimum wage, equal remuneration, overtime wages, working hours, age limit, first aid & safety equipment, maternity leave, shelters, crèche, drinking water and sanitation, transportation, job cards, safety equipments, canteen), of such a contract are given in the section 8.

## **8. Elements of a Model Contract**

The Government of India and the various state governments have introduced a number of Acts that cater to the wellbeing and welfare of migrant construction workers. However due to several reasons, the implementation of these Acts has been rather weak. One of the main reasons is an ineffective government enforcement mechanism. For example: according to the state policy the principal employer is responsible to register the workers while registering the construction site with the labour department. But, in order to avoid additional liability of implementing the stipulated labour laws, it was learnt from the interviews with the government officials as well as the contractors that the employer does not register the entire number of workers. If the principal employer were indeed registering all the workers there would be no issue in registering the same workers with the Board as well, thus benefiting the entire work force. Another reason for non implementation of the law is lack of awareness among the workers about their rights and liabilities of employers under relevant statutes.

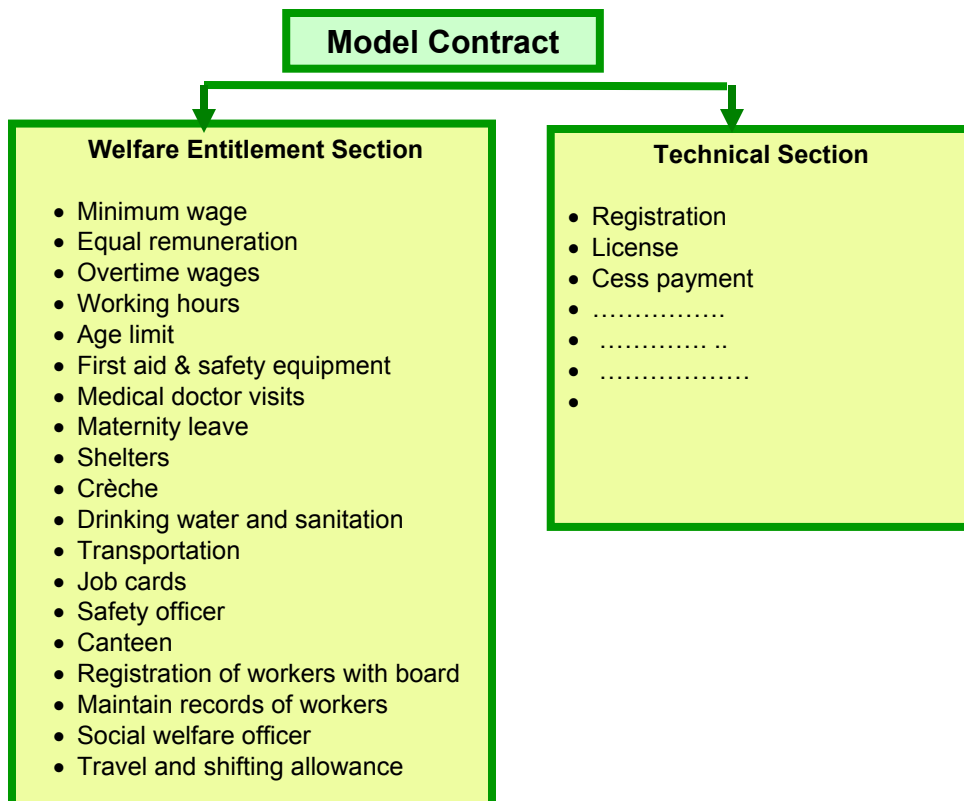
The principal employer needs to be legally bound to provide all the welfare and protection facilities as cited in the various concerned Acts of the migrant construction workers (The Building and Other Construction Workers (Regulations of Employment and Conduct of Service) Act, 1996, the Building and Other Construction Workers Cess Act, 1996, the Contract Labour Act, 1970, the Inter State Migrant Labourers of Employment Conditions of Service Act, 1979). For this, it is being suggested that a contract be signed between the government and the principal employer wherein he declares that, in addition to the technical requirements, he will be providing all the welfare and protection facilities to all the workers employed on that

construction site. The principal employer should further sign another contract with his contractor, legally binding him to provide all the facilities mentioned in the contract.

Given that the contract signed will be applicable for different types of construction works, it is being suggested that the contract have 2 sections- the first containing the technical section which would vary depending on the type of the works such as civil constructions, water treatment plant, road construction (in this case A, A1, B,B1 and C,C1 tender forms would be used) etc; the second section would relate to the welfare and protection of the workers and would be common across all contracts signed, irrespective of the nature of the establishment. The elements for the framework (as shown in Figure 21) for such a contract between the government and the principal employer are given in the following sub sections.



**Figure 21: Elements of the Model Contract**



## **8.1 Welfare Entitlement**

In accordance with the provisions of the Building and other Construction Workers (Regulation of Employment and Conditions of Services) Act, 1996 (Government of Gujarat GHR-2003-III-CWA-1869-M (3) dated: 18-8-2003:

- It should be mandatory for the principal employer to provide shelters to the construction workers at the work site. Such shelters must also be equipped with sanitary facilities and drinking water and the rooms should be well ventilated. Separate sanitation facilities for men and women are maintained. Drinking water point must not be within 10 meters of sanitary facilities. The principal employer to provide transport facilities to workers from place of work to their residential complex.
- The principal employer should ensure that workers are provided with statutory minimum wage, specified by the Gujarat Government, within first week of every month.
- There should be no discrimination for payment between male and female workers.
- Overtime wages should be given, at the double rate of normal rate.
- Working schedule of the workers must be fixed between 8 am to 5 pm or 9 am to 6 pm. A lunch break of half an hour to one hour must be given to the workers. Weekly holiday should be provided to the workers.
- The principal employer should make arrangements to provide and maintain a canteen in every place that employs over two hundred and fifty building workers. Food should be provided at subsidized rates at this canteen.
- In case the number of workers exceeds 50 workers an ambulance equipped with first aid facilities should be made available at the work site.
- The principal employer should provide an appropriate crèche equipped with all facilities for children below the age of 3 years where the number of married women is more than 10. Balanced diet for the children should also be arranged accordingly.
- The principal employer should provide safety equipments like helmets, shoes, gloves, and spectacles to the workers. One Safety officer should be appointed where 500 or more workers are employed to supervise and monitor the safety and health measures

for the construction workers. The principal employer is also responsible for compulsory notification of on-site accidents.

- The principle employer must get any work executed only through licensed contractors.

In accordance with the provision of the Inter State Migrant Labourers of Employment Conditions of Service Act, 1979:

- The principal employer should provide travel and shifting allowance for inter state migrant workers where there are more than 10 inter state migrant workers.

Along with these, the study recommends that another provision be included in this section of the contract:

- The employer has to appoint one social welfare officer where 100 or more workers are employed to maintain welfare and social protection measures of construction workers. For this there is a need to train social welfare officers on sensitization and awareness of worker's social and welfare issues and related benefits from the various sources.

## ***8.2 Social Security Entitlements***

In accordance with the provisions of the Building and other Construction Workers (Regulation of Employment and Conditions of Services) Act, 1996 (Government of Gujarat GHR-2003-III-CWA-1869-M (3) dated: 18-8-2003:

- The principal employer must ensure that only workers between 18 and 60 years of age should be employed for work. Construction workers should undergo medical examination and persons unfit for such labour may be screened before the work commencement.
- The principal employer should compulsorily register all the workers with the Board along with registering with labour department.
- The principal employer should maintain registration of workers along with information on name, address and age. Attendance records and wage records should also be maintained.
- The principal employer should ensure that all the workers are provided with job cards with details of address, age, skills, attendance and wage of the worker.

- The principal employer should ensure that women workers get maternity leave for the period of 4 weeks in case of delivery, miscarriage, or sickness. Ensure that the workers also get Rs. 3,000 as benefit under the maternity scheme of the Board.

The Board, LC, RLC and DISH needs to coordinate and include these aspects into all the contracts and also monitor strictly to enforce these aspects at ground level. Because success of any legislation depends upon its implementation, otherwise the legislation remains as a piece of paper for the workers.

**Note:** The principal employer may decide to have the contractors fulfill part of these responsibilities by including these in the contract signed between the principal employer and the contractor. However, the principal employer and sub-contractors must both jointly be held liable for breach in implementation of these provisions.

## 9. Conclusion

The migrant construction workers are probably the most neglected group among all the labourers in India. By very nature of being migrants, these workers tend to get excluded from their state of origin and then they are further not accepted as part of their destination state. State policies like that of Gujarat which require the employers to necessarily hire a larger percentage of intra-state workers only, leaves them in a further lurch. As they are unorganized, these workers are politically unimportant and hence the various policies, regulations and Acts are not implemented by either state with respect to these workers. Thus these migrant workers find themselves in a gap wherein they are excluded from the beneficiary net of both the state of origin and destination, leaving them very vulnerable, voiceless and un-unionised.

In order to improve the state of these migrant construction workers, an understanding of their current living and working conditions is important. For this a qualitative study has been conducted which covers two main areas. The first is an understanding of the livelihoods of migrant construction workers. The second relates to the legal provisions regarding their employment, work and living conditions. The livelihoods analysis shows both push and pull factors at work. Poverty and low incomes in source villages force villagers to look for work outside, even as unskilled workers. At the same time, the growing construction sector offers



good employment opportunities, especially for skilled workers, and enables migrants to save and return home with some cash savings. Migrant construction workers represent a large body of human resources whose access to basic needs and entitlements should be ensured.

The laws at first seem comprehensive and adequate, with provisions for contractors to register and care for the needs of the workers. Ground realities, however, are different, and reveal that sub-contracting arrangements work to free main contractors of their obligations to the workers. Few workers know the laws. Access to welfare schemes is through registration, and only about 2.99% of the total estimated construction workers in Gujarat state have ever been registered. Even after registration, welfare schemes are either not relevant, or difficult to access for a variety of reasons. Workers are unaware of the schemes, and when they do find out, the costs of accessing them costs as much as the benefits themselves. Even those benefits that accrue are exclusively for workers from within Gujarat, those from other states fall through every possible safety net. The study recommends conducting a comparative study of other states to understand administrative setup of the Board and best practices in the implementation of welfare schemes of the Board.

At the same time, it is to be noted that the study revealed some positive features. Women labourers received wage at par with men and no gender disparities in wages was evident and skilled labour received more than the minimum wage rates. Most principal employers and contractors had provided basic facilities of shelter and water for drinking and bathing purpose. One or two sites even came close to being model contractor sites. However, Gujarat is a state that aims to be a model state and has shown a proactive leadership role in so many sectors to improve the Human Development Index of its citizens. Hence, implementation of the recommendations in this report will once again show that Gujarat is responsive to the needs of a very vulnerable and marginalized section of society, that is, migrant construction workers.

## 10. References

- Bajaj C. Subhash (2004). Inter-State Migrant Labour and The Law, in K. Gopal Iyer (ed), Distressed Migrant Labour in India: Key Human Rights Issues, pp 267-275. Kanishka publishers.
- Building and other Construction Worker's Welfare Board (2008). Proposal to create 25 new posts of Inspector of Inspection of Building and Construction (Class II) submitted to GoG in 2008, by the DISH.
- Consumer Unity and Trust Society (CUTS) (2005). Improving Labour Standards through Development: A Positive Agenda. Issue No, 26.
- GOI (1996). Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, Ministry of Labour, Government of India.
- Hirway Indira (1987). Protection to Rural Seasonal Migrants: Some Issues, in Vidyut Joshi (ed). Migrant Labour and Related issues, pp 121-135 Oxford and IBH, New Delhi.
- Iyer Gopal, K; Singh Veer and Arya P.P (2004) Distressed Migration: Causes and Consequences, in K. Gopal Iyer (ed), Distressed Migrant Labour in India: Key Human Rights Issues, pp 81-99. Kanishka publishers.
- Kumar S.K. Shashi (2004). Theories of Internal Migration: A Critique, in K. Gopal Iyer (ed), Distressed Migrant Labour in India: Key Human Rights Issues, pp 34-43. Kanishka publishers.
- Kumar, M. Dileep (2005). Problems of Construction Labourers: A Qualitative Research. IIT, Pune. Available at <http://www.indianmba.com/Faculty Column/FC340/fc340.html>
- Moulik T.K. and Swati Mehta (1990). Migration: A Case of Gujarat. Indian Institute of Management, Ahmedabad.
- National Sample Survey Organization (NSSO) (2001). "Employment-Unemployment Situation in India 1999-2000", 55 Round, Report No.458-I and II, Ministry of Statistics and Programme Implementation. Government of India. New Delhi.
- Pallavi Aparna, (2005). 'Food Passport' for Migrants. Available at <http://www.boloji.com/wfs4/wfs483.htm>
- Pandit Kameshwar (2004). Trade Unions and Migrant Labour in Himachal Pradesh, in K. Gopal Iyer (ed), Distressed Migrant Labour in India: Key Human Rights Issues, pp 277-283. Kanishka publishers.

Report of the National Commission on Labour (2002). Unorganised sector. Available at:  
<http://www.erlaws.com/library/nlcrrep.htm>

Sampark (2008). Note on Experience in Running Creches for Children of Construction workers in Bangalore, Sampark.

Sarde, Sudharshan Rao (2007). Migration in India: Trade Union Perspectives in the Context of Neo Liberal Globalisation. IMF-SARO, New Delhi.

SEWA (2000). Labouring Brick by Brick A Study of Construction Workers, SEWA, Ahmedabad. Available at [http://www.sewaresearch.org/pdf/researches/labouring\\_brick\\_by\\_brick.pdf](http://www.sewaresearch.org/pdf/researches/labouring_brick_by_brick.pdf)

Thakur C.P. (2008). Labour Policy and Legal Framework in India, Volume 1: A Review, in Papola T. S (ed), Labour Regulation in Indian Industry, pp 8-57. Bookwell publishers.