

Construction Workers

1

Jai Shankar Memorial Centre
211, Deshbhandu Apartments
Kalkaji, New Delhi - 110 019

100/100

Part I - An Overview

I	National Importance of the Construction Industry	01
II	Peculiar characteristics of the Construction Industry	02
III	State Policy on Construction Sector	06
IV	Employment & Category of Workers	09
V	Mode of Recruitment	12
VI	Wages and Earnings, Hours of Work, Welfare and Living Conditions	13
VII	Observance of Safety Standards	16
VIII	Upgradation of Skills	16
IX	Extent of Unionisation	19
X	Legal Pronouncements	20
XI	Need for a Comprehensive Central Law for Construction Labour	28
XII	The Brick Kiln Industry	31

Part II - Case Studies

I	Introduction	33
II	From the Workers' View Points	33
III	How Management Looks at it	38
IV	From the Union Angle	41
V	Snippets from the Documentary Film	44

part III

Structural Adjustment Programme and its Impact on Labour in the Construction Sector	46
-------------------------------------------------------------------------------------	----

Annexes

- I Male and Female Workers - Construction Industry - Census Data 1901 - 1991.
- II Census 1991 Sex-wise and State-wise distribution of Construction Workers vis-a-vis Main workers.
- III Employment in Public and Private Sector - Construction Industry.
- IV Minimum Rates of Wages applicable to Construction labour Notifi-cations issued by the Union Territory of Delhi and by the Centre.
- V Central Public work Department (CPWD) Contract Labour Regulations.
- VI Model Rules for protection of Health and Sanitary arrangements for Workers Employed by Central PWD or its Contractors.
- VII DLB Study (1978) of the Working and Living Conditions of Workers Building and Construction in Delhi - Summary of the Findings and Main Recommendations.
- VIII Socio- Economic Conditions of Women Workers - Building and Construction Industry - DLB Study (1990) - Important Findings.
- IX Ela Bhat Commission - Shram Shakti Report (1988) on "Self Employed Women and Women in the Informal Sector" - Excerpts.
- X The Mobile Creche System in India.
- XI (a) Growth of Trade Unions in India - 1962-1987.
(b) Verified Membership of Trade Unions - Construction Industry. (31.12.80)
(c) Unionisation in the Construction Industry - A Global Perspective
- XII (a) Building and Construction Industry, Case Study - Questionnaire on Workers.
(b) Building and Construction Industry - Case Study - Questionnaire on Employers.
(c) Building and Construction Industry - Case Study - Questionnaire on Trade Unions.

Annexes

- I Male and Female Workers - Construction Industry - Census Data 1901 - 1991.
- II Census 1991 Sex-wise and State-wise distribution of Construction Workers vis-a-vis Main workers.
- III Employment in Public and Private Sector - Construction Industry.
- IV Minimum Rates of Wages applicable to Construction labour Notifi-cations issued by the Union Territory of Delhi and by the Centre.
- V Central Public work Department (CPWD) Contract Labour Regulations.
- VI Model Rules for protection of Health and Sanitary arrangements for Workers Employed by Central PWD or its Contractors.
- VII DIB Study (1978) of the Working and Living Conditions of Workers Building and Construction in Delhi - Summary of the Findings and Main Recommendations.
- VIII Socio- Economic Conditions of Women Workers - Building and Construction Industry - DIB Study (1990) - Important Findings.
- IX Ela Bhal Commission - Shram Shakti Report (1988) on "Self Employed Women and Women in the Informal Sector" - Excerpts.
- X The Mobile Creche System in India.
- XI (a) Growth of Trade Unions in India - 1962-1987.
(b) Verified Membership of trade Unions - Construction Industry. (31.12.80)
(c) Unionisation in the Construction Industry - A Global Perspective
- XII (a) Building and Construction Industry, Case Study - Questionnaire on Workers.
(b) Building and Construction Industry - Case Study - Questionnaire on Employers.
(c) Building and Construction Industry - Case Study - Questionnaire on Trade Unions.

Construction Workers

Part I - An Overview

I. National Importance of the Construction Industry

1.1 As has been mentioned in various Government Reports, Building and Construction Industry is the second largest economic activity in India next only to agriculture. About 40-50% of total capital outlay in the successive five year developmental plans of India has been on construction alone. It generates more incremental value added per unit of investment than any other industry.

1.2 Its share of the Gross Domestic Product (GDP) and Gross Capital formation signifies its importance as could be seen from the following:

Gross Domestic Product

Year	At Current Prices (in Rs. Crores)	
	Total	Construction Industry
1990-91	472660	27132 (5.74%)
1991-92	541888	31331 (5.78%)

Gross Capital Formation *

Year	At Current Prices (in Rs. Crores)	
	Total	Construction Industry
1990-91	140516	55732 (39.7%)
1991-92	146420	65934 (45.03%)

(Source: Central Statistical Organisation -CSO)

(*) with the contraction of Governmental and public sector expenditure in the years 1992-93 onwards, may be figures and percentages may undergo a change).

1.3 Building and construction industry covers a vast field of activities. Such activities are not confined to construction of roads, bridges or building as is commonly understood. They include: construction of dams, barrages, tunnels, canals, power plants, industrial structures, factories, sewerages, laying of railways, tramways, pipelines, cables and rope ways and erection of towers, chimneys. It also includes demolition and maintenance of structures and services.

1.4 The vastness and magnitude of construction industry could be gauged from the fact that there are many ancillary industries and activities with which construction industry is closely interrelated and inter linked.

1.5 There are brick kilns and tile factories. (It is estimated that there are more than 30,000 brick kiln units employing 50 lakh or more workers), stone quarrying, sand dredging, wood, glass, limestone and paints, cement, steel, electrical constructional fixtures, furnishings and fittings.

II. Peculiar Characteristics of the Construction Industry

2.1 The Tripartite Working Group on Building and Construction Industry set up by the Ministry of Labour (Feb.1985) has in its Report (Jan.1990) listed certain peculiar characteristics relating to this industry. Important among these are:

2.1.1 Construction work is carried on at the work site and workers move to new sites wherever the new project is situated. Thus, employment in construction industry is treated as casual and as such employment relations are also generally not permanent. This becomes even more pronounced in construction activities related to private house building and petty repairs and maintenance. For larger works, tenders are invited for undertaking/execution of specific items of work, and on acceptance of tender, work commences. Thus the final outcome is contracted before it is actually constructed as the rates are fixed before the job is undertaken. This makes the industry highly competitive.

2.1.2 The activity in the industry is generally mobile and each construction job is unique. The duration of different activities in the industry is uncertain, ranging from very short to very long periods depending upon the nature and time frame for the completion of the project.

2.1.3 The nature of work in the industry ranges from highly labour intensive to capital intensive jobs. The construction technology adopted and equipment used also keep varying from time to time, from job to job, depending upon nature and size of the project.

2.1.4 Gang labour is common and Sardar, 'Mukkadam' function like the now defunct "jobber" in factories. The sub-contracting and piece worker system give rise to layers upon layers of employment, with the apex level owner seldom knowing, who and how many and where exactly the labour is/are working for him. The availability of unskilled labour is not a problem; however, semi skilled and skilled and highly skilled manpower are in short supply.

2.1.5 Sociologically, construction activity constitutes midway stage on the agriculture-industry continuum of workers' adjustment to industrialisation. The migratory pattern of construction workers, the economic and social consequences of working at construction sites and a host of other factors create peculiar civic, socio-economic, managerial and administrative problems that are unique pertaining to this industry.

2.1.6 Construction industry also constitutes the informal sector of economic activity. Because of the absence of satisfactory regulatory requirements, entry into the building and Construction industry is very easy. Moreover, capital required for entry into that business is not of that magnitude as required for other industries. Consequently, contractors come, pick up work and keep on moving. There are a very large number of small and big contractors engaged in building and construction activity ranging from a one man team to a multicore company employing hundreds of persons. Predictably, the birth and mortality rates of contracting firms are very high.

2.1.7 A vast majority of workers are unskilled and unorganised. They acquire skills as "under study " of other skilled workers. In fact, the industry is characterised by general lack of training facilities. The migratory nature of workers contributes in a large measure to this unhappy situation.

2.1.8 Industrial and Technical Training Institutes have not given adequate attention to the industry - perhaps due to its unorganised nature. Construction specific technical training or contractor training programmes or for that matter even an inventory of skills required to discharge duties of construction jobs are conspicuous by their absence.

2.1.9 There are about a score and more laws supposedly to be applicable to the construction industry. It should be noted that laws too gentle are seldom obeyed, too severe seldom executed, too many baffle the executor and those against the economic realities seldom achieve objectives. All these apply, in a unique way to the Building and Construction Industry. Though building and construction is treated as an "industry" under labour laws, strangely and unfortunately, it is not treated as such for financial, fiscal and taxation purposes.

2.2 Modelled on the Dock workers (Regulation of Employment) Act, 1948, certain state Legislatures (Andhra Pradesh, Maharashtra and Tamil Nadu) have also passed similar laws in respect of manual workers or mathadi workers as they are called if these, the constitutional validity of the Andhra Pradesh Muttah, Jattu, Hamul and Other Manual Workers (Regulation of Employment and Welfare) Act 1976 (especially section 3 of the Act and the scheme framed there under, imposing obligations on the employers to register themselves, to employ only registered workers supplied by the Board to pay the levy, etc) has been upheld by a decision of the Division Bench of the AP High court.

2.3 Construction is also one of the least researched industries in the country. It is also an industry that reports the minimal data about its internal working and safety.

2.4 What the International Labour Organisation has to say about this Industry is instructive, informative and quite revealing. According to the ILO "Construction is one of the principal industries in all countries. It is an industry that has its own unique characteristics and contributes to almost all developmental programmes. Almost all development projects and programmes require some construction work-projects in the field of health, education, food production and transport - all require construction work and in many cases, this component of the development process is by far the most costly. Hence, it is true to say that construction industry underpin development and provides the brick and mortar of progress."

2.5 According to the ILO, the image of the industry is commonly perceived as negative which adds to the problem of recruiting and maintaining a qualified work force. The negative image is based on the more conspicuous types of work in the industry which affect a gradually dwindling number of workers, but which, none the less form its trade mark; unskilled labour work outdoors in the open air, short contracts, high mobility, physical danger, heavy workload.

2.6 The unique characteristics of the construction industry are usually presented as negative or as hindrances which block the way to technological development and productivity. Instability, short duration, uniqueness of products, change of clients, management of complex interactions, wide range of skills and skill mix, extensive use of specialised and transient work and workers'. Dealing with the characteristics of the product and the market, it has been found, as the ILO Report ¹ observes "the products of the construction industry are generally large, heavy, expensive, unique, geographically dispersed and slow to produce. Because each client's needs are unique, it is often said that the industry specialises in the construction of expensive prototypes. These characteristics according to the report have the following effects: (a) the high capital cost makes the industry an obvious target for expenditure cuts when Government runs short of funds. (b) Construction works can bestow considerable political prestige upon their sponsors or promoters - these two factors are responsible for the characteristic "boom " and "bust" economic cycles of the industry in most countries. The Report has pertinently noted that the practice of preparing a unique design for each project does not contribute to efficiency in construction.

2.7 The report has further noted that because of their size and the duration of the construction process, construction works provide an excellent means of generating employment. This important factor is often neglected by governments which tend to focus their economic attention on the end product than on the process.

¹ ILO report 1, 12th session of the ILO Building Civil Engineering and Public Works Committee, (Geneva, Dec.1992), Page 45.

2.8 According to the ILO, the market structure of the industry implies that the contracts are employed essentially simply as suppliers and managers of resources. The method of regular payment is sufficiently attractive as it generates a steady flow of cash. The result has been that the industry has become appealing to entrepreneurs as it is relatively easy to enter and leave and it would require of the contractor quite low levels of technical skill.

2.9 The ILO has also made a very significant observation: "generally construction as an economic activity has low prestige. Perhaps the reason could be that it has been seen as an enabling industry providing a service to other industries rather than as a productive industry" in its own right. In addition, the process of construction because its predominant resources are crude, naturally occurring materials (such as stone) and manual labour - may be perceived as too basic to require the serious attention of economists and planners. Whatever the reasons, national development plans rarely consider the capacity of the local construction industry, to mobilise the resources necessary for supporting the proposed development programme. This view of the industry's low profile and low status has the additional consequence that construction firms find it difficult to attract high quality professionals, managers - a handicap which has a detrimental effect on the performance of the industry.

III. State Policy on Construction Sector

3.1 The State has, as such, no well defined policies on construction, either as an activity or as a major employer, excepting that as regards the latter, the Minimum Wages Act had included, right at the beginning, construction as an employment in the Schedule to the Minimum Wages Act, '48

3.2 Even the Contract Labour (Regulation and Abolition) Act, 1970 was enacted only in 1970, in the twenty-first year of the Republic, and came into force only in 1971, though bulk of the contract labour in the country is engaged in the construction industry. It is relevant to point out that the starting point of the legislative exercise leading to the enactment of this law was not related to the construction industry but a Supreme Court Judgment in the Standard Vacuum Refinery Company case, which was not related to the construction industry. That the constitutional validity of the Act was challenged by an employer in the construction industry, viz Gammon India Ltd., is not without significance. The enactment of the Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act, 1979 is yet another legislative step.

3.3 No special concern appears to have been bestowed on the problem of the workers in this industry, either by the Central or the State Governments except for periodic revision of the minimum rates of wages under the Minimum Wages Act. Even the meetings of the Industrial Committee on Construction Industry, convened by the Central Labour Ministry, have been few and far between. All these show evidence of benign neglect on the part of the Government in regard to this section of workers. The implementation of Contract Labour Act and Minimum Wages Act also leaves much to be desired.

3.4 Over the last decade or so, some concern appears to be in evidence. The setting up of the tripartite Committee on Brick Kiln industry and a tripartite Committee on the Construction industry, in the eighties, unfortunately, did not lead to anything worth-while. Even the Bill introduced on safety, in the construction industry, though pompously entitled "Construction workers (Regulation of Employment and Conditions of Service) Bill, 1986" came to nought.

3.5 It is not as though various learned commissions and committees and conferences have not made appropriate recommendations to improve the status of the industry and its workers. Some of these are referred to briefly in the succeeding paragraphs.

3.6 The National Seminar on "National Policies and Productivity in Construction Sector" held on May 2-3 1985, made certain recommendations which gave concrete suggestions for Government's policy relating to this sector. The Seminar was organised by the National Productivity Council and the NICMAR (National Institute of Construction Management and Research). It was sponsored by the ILO, various Ministries of the Government of India, Public and Private sector Corporations, Research Institutions and Industry Associations. The principal recommendations of the Seminar were:

3.6.1 Since construction plays a vital role in the national development and its performance greatly influences the development of other sectors of the economy, it should be considered as a developmental sector of economy and conferred the status of an "industry" by the Ministry of Industry.

3.6.2 A National Construction Board (NCB) be established at the centre with corresponding Boards at the State level. The NCB should be an apex level national authority for promoting construction works, regulation and licensing of contractors, consultants and other indirect participants, setting up norms and standards, creation of national data bank in construction, promoting surveys and research studies for productivity improvement as well as promoting project exports.

3.6.3 Multiplicity of contract documents should be avoided and there should be a basic standard Contract Document which should be rational, fair and equitable to all parties.

3.6.4 The National Building Code for construction materials should be accepted as norms and incorporated in the Contract Conditions Documents.

3.6.5 The Ministry of Finance, Government of India, should establish "Construction Finance Bank" for the construction sector to support contracting consultancy and construction material and equipment. Such a measure would lend necessary monetary and fiscal support to the growth of this sector.

3.6.6 Realising that the construction sector needs modernisation to enable it to compete internationally and to ensure satisfactory quality and safety standards, it is necessary that a judicious blend of technology and employment in the national policies be formulated for this sector.

3.6.7 The National Productivity Council should develop a "Productivity Code" for the construction sector.

3.6.8 The Ministry of Labour, Government of India, should take immediate steps for simplification of procedures and forms of various labour laws. Schemes of decasualisation of employment of construction labour may be introduced on experimental basis at selected project sites and metropolitan towns.

3.6.9 A Construction Labour Welfare Fund may be established on the lines of the Coal Mines labour Welfare Fund.

3.6.10 The objectives of the ESJ Act and E.P.F. Act would be better served if special schemes of social security are evolved for construction labour. Setting up of Social Security Boards at large project sites could be tried as pilot schemes.

3.6.11 Evolution of a National Safety Code for Building and Civil works and employment of safety officers to be made a statutory obligation of large construction employers/authority. The Ministry of labour should make statutory provisions to give effect to these recommendations.

3.6.12 Engineering students should be exposed to construction management and productivity and these subjects should be incorporated in the syllabi of engineering colleges.

3.6.13 Construction sector should ensure that technical skills and aptitude of the existing employees are upgraded on a continuing basis.

3.6.14 A high level Steering Committee be set up to monitor and ensure that effective follow up action is taken on the recommendations.

IV. Employment and Category of Workers

4.1 Construction is a labour intensive industry. The NBO has estimated that the labour wages comprise 25 to 40% of the total cost of a building project.

4.2 According to the Rege Committee Report (1944), total employment in 1944 in 5 zones (Eastern, Southern, Western, Central and Northern) of the Central Public Works Department (CPWD) engaging construction workers was 1,23,622 of which 1,07,321 or 86.8% were unskilled. Departmental labour i.e., labour employed and paid by the CPWD directly formed only a quarter of the total, the rest being employed by contractors. The same report had also indicated that employment in bigger Municipalities engaged in construction activity totalled 57,471 in 1944.

4.3 The National Commission in Labour (NCL) (set up in 1966, the commission submitted its report in August 1969) had referred to the 1961 census which estimated that over two million workers were employed in major sectors of construction industry of which women accounted for 2.4 lakhs. It also referred to the Planning Commission's estimation of addition of 2.3 million work opportunities in the construction industry during the Third Plan (1961-66).

4.4 The Study Group set up by the Commission (with Shri Bagaram Tulpule as its Chairman) suggested decasualisation schemes like those in Docks or in the textile industry in Bombay & Ahmedabad. It was also suggested that pilot decasualisation schemes should be tried in one or two suitable but not very large Urban Centres on an experimental basis, and if found workable should be introduced in all other Urban Centres also, the Group had also recommended that

workers employed by Government or by local authorities on maintenance work on Buildings, Roads, Airports, Dams/irrigation canals etc, should be deemed to be permanent and get all benefits of permanency since their work is not of a casual nature.

4.5 The National Commission on Rural Labour in its Report (vol 1. para 7.69 page 89) has indicated that as per the NSS 43rd Round (1987-88), the estimated number of rural construction workers was 8.5 million. It accounted for 3.37% of the total rural employment and 15.3% of the total non-agricultural employment. Rajasthan, Gujarat, and Maharashtra had higher concentration of construction workers. These western states accounted for about half the total construction workers in rural India. Uttar Pradesh, Andhra Pradesh, Bihar, Tamil Nadu and Orissa showed higher proportion of construction workers than rest of the States.

4.6 According to the EIU (Economist Intelligence Unit) country profile - India 1991-92 "it is estimated that up to 95% of the 3.5 million construction work force are temporary workers. There are an estimated additional 6.5 million seasonal workers, many of whom are engaged in the informal sector. The trade Unions estimate that the figure may be as high as 25 million". (While this may be the claim from the workers' side, the employers would counter by noting that by and large, except for skilled workers like masons, carpenters, etc, the workers otherwise in the construction industry, are only the overflow from the agricultural sector, especially during slack seasons and arising out of shortage of employment opportunities in the rural areas.)

4.7 In the 1991 Census, out of a total of 285.93 million main workers, construction accounted for 5.54 million (male 5.12 million and female 0.42 million) as compared to 222.52 million main workers and 3.72 million construction workers in the 1981 census. A Tabular Statement giving male, female break up of construction workers for the years 1901-1991 (based on census figures) is given in Annexe-I

4.8 The sex wise and State-wise distribution of Main Workers with its construction component, as revealed by the 1991 Census, is presented in Annexe-II

4.9 According to the figures published in the CSO's Monthly Abstract of Statistics (March 1993), out of a total of 259 lakhs employed during 1988-89 (184.45 lakhs in the public sector and 74.54 lakhs in the private sector), Construction accounted for 12.15 lakhs (11.46 lakhs in the public sector and 0.69 lakh in the private sector.) For details please see Annexe-III

4.10 Categories of Workers

4.10.1 Constructive workers are broadly classified as Unskilled, Semi-skilled, Skilled, Highly skilled and Clerical or Supervisory personnel. The minimum wage notifications, centrally issued by the Union Labour Ministry and by the State Authorities, invariably carry with them, a list of the categories of workers belonging to the above broad groupings.

4.10.2 Bulk of the workers are engaged on casual basis. They are mostly temporary. Unstable employment and constant shifting of work places are basic characteristics of construction workers consequently employment in construction works is interspersed with unemployment periods of varying proportions, mainly due to the fluctuating requirements of labour force on each work site as well as sudden shortage of building material, breakdown of power, financial stringencies and a host of other unforeseen contingencies.

4.11 Emigration for employment-Scope for Construction Workers

4.11.1 Government of India have undertaken many building contracts especially in the Middle East Countries. Construction industry offers good scope for emigration of qualified skilled personnel belonging to this industry in these countries.

4.11.2 Section 22 of the Emigration Act, 1983 provides that no citizen of India shall migrate unless he obtains emigration clearance from the Protector of Emigrants. However, with a view to facilitating the movement of workers, seventeen specified categories of persons have been placed under "Emigration Check Not Required" (ECNR) category. Six additional categories were added to this list in October 1991. The 17 exempted categories include among others "all persons possessing certificates of vocational training from Govt/Govt recognised Institutions" and "all persons holding Diplomas from recognised Institutions like polytechnics". Of the six additional categories later included, three belong respectively to "Supervisors", "Skilled Workers" and "Semi-skilled workers" (belonging to all professions).

4.11.3 Category wise emigration clearances granted 1987 - 91

Category	1987	1988	1989	1990	1991
Carpenters	6361	7625	12900	6939	5132
Fixer/Fabricators	5125	1904	2008	2827	1052
Labourer/Helpers	52794	91196	40657	58779	45028
Masons	7140	8550	8731	8913	6323
Painters	2463	2273	2501	1867	1866
Plumbers	1956	1971	1624	2047	1831
Welders	1524	1497	1222	3272	1291
Surveyors	69	461	264	218	234
Fitters	-	1690	-	-	-
Electricians	2957	3494	3689	4496	2832

(Source: Ministry of Labour Annual Report 1992-93, Page 68)

V. Mode of Recruitment

5.1 For executing a job, a contractor or, an authority where work is executed departmentally, need retain a sizable work force or have it available at call. The Contractor, for this purpose, has evolved a system of having labour "at call" through the institution of Jamadar, Maestri, Macadam, or whatever to be the regional appellation and through the system of peshgi or advances. "The Jamadar is responsible to bring labour when required, retains and controls it during the contract period, takes it away when the job is over and brings it back when needed again". The Peshgi system establishes or supposed to establish the bond between the contractor, Jamadar and labour. The Jamadar serves thus as the guarantor of Contractors' money, ensures workers' employment and constitute a vital link between the two.

5.2 In Delhi, a prevalent system in respect of small works is for the workers to line themselves up at some well-defined places from where the intending employer picks up the workers. The lack of employment opportunities is evident from the way they rush themselves to the intending employer to pick them up for work.

5.3 The Jamadar system smacks of exploitation and is certainly abhorrent to the volarities of modern management. There can also be no two opinions that the Jamadar system has worked always to the disadvantage of the construction labour. The misuse or the abuses of Jamadar system all the more brings into sharper focus the imperative need for constitution of Construction Labour Boards, as envisaged in the 1986 Bill, so assiduously espoused by the National Campaign Committee.

5.4 All these do not mean that there are no regular and permanent employees in this industry. The large construction firms and departments like CPWD, State PWD etc, do have their complement of permanent staff like draftsmen, ministerial staff and so on, but they are a very small percentage of the total number of persons employed in the execution of a project or projects.

VI. Wages and Earnings, Hours of work, Welfare and Living Conditions

6.1 Wages for construction labour are fixed and notified under provisions of the Minimum Wages Act from time to time. Details relating to wage rates applicable to construction labour, as applicable to the Union Territory of Delhi, are given in Annexe-IV

6.2 Normally, working hours of an adult employee should not exceed 9 hours a day and in case of a child 4 1/2 hours a day. The working day shall be so arranged that inclusive of interval for rest, if any, it shall not spread over more than 12 hours on any day.

6.3 Where an adult worker is made to work for more than 9 hour a day or for more than 48 hours in any week, he or she shall be paid over time for the extra hours put in by him or her at double the ordinary rate of wages. Children shall not be made to work for extra hours. Every construction worker shall be given a weekly holiday, normally on a Sunday, in accordance with the provisions of the Minimum Wages (Central) Rules, 1960, as amended from time to time, irrespective of whether such worker is governed by the Minimum Wages Act or not.

6.4 All these and other attendant provisions are set out in the Central Public works Department Contract Labour Regulations (for details please see Annexe-V)

6.5 There are also Model Rules for the protection of health and sanitary arrangements for workers employed by central PWD or its contractors. A copy of the Model Rules is added as Annexe-VI

6.6 Working and Living Conditions of Workers in the Building and Construction Industry - Special Studies Conducted

6.6.1 The Labour Bureau (LB) in the Ministry of Labour, conducted as early as 1954, a study on labour conditions in the Building and Construction Industry in India. The National Commission on labour (1969) had specifically recommended that for a better understanding of the problems of different categories of Unorganised labour, it would be essential to conduct detailed surveys relating to this sector. Accordingly, a study of the working and living conditions of workers in the Building and Construction in Delhi was undertaken by the Labour Bureau towards the close of 1977 and the Report was brought out in October 1978. The field work covered two phases - the first one relating to areas falling within the NDMC (New Delhi Municipal Committee) and the second phase covered the South Delhi Zone. A summary of the findings and main recommendations of the DLB's Study Report is given in Annexe-VII

6.6.2 After completing studies on Women Workers engaged in the organised Industrial Sector, the Bureau took up similar studies relating to women in the unorganised industrial sector. Building and Construction Industry was the first to be covered under such series/studies. The study was confined to the four metropolitan cities of Delhi, Bombay, Calcutta, and Madras. In all, 29 work sites in Delhi, 14 in Bombay and 13 in Madras were covered for the study. None was selected for Calcutta. Out of a total of 3572 workers selected for the study, 825 were women. They constituted a little over one fourth of the total sampled for Delhi (503 out of 1971), 15% in Bombay (155 out of 1031) and 29.3% in Madras (167 out of 570). Almost all the women workers belonged to the unskilled category. They accounted for as high as 51.2% (167/326) in Madras 37.9% in Delhi (503/1328) and 22% (154/701) in Bombay. Unskilled women workers were mainly engaged in carrying earth, mortar and bricks. They were generally designated as Beldars/Coolies. Important findings of the Study Report are given in Annexe-VIII

6.6.3 The Ela Bhatt Commission on "Self Employed Women and Women in the Informal Sector" (the commission constituted in Jan.87 submitted its report in July 88) has perhaps been the first of its kind to have studied in depth, at the national level, the plight of working women, especially in unorganised sector. The commission has been quite unequivocal and forthright in its realistic appraisal of the abject working and living conditions of women workers, particularly in the construction industry. The Commission members in the course of their travels and fact finding missions all over the country, had a first hand account of the travails, tribulations and sufferings of women workers in the construction industry as narrated by the workers themselves. An excerpted version of these, recorded by the commission in its Report, is reproduced in Annexe-IX

6.6.4 The National Labour Institute (NLI) brought out in 1988, a Study Report on "Casual Labour of Kanpur: Their Living and Working Conditions". The study covered among others the casual labour employed on regular basis by Railways, PWD, MES, etc. The findings emanating from the Study are quite revealing. The following are excerpts from the study report.

6.6.5 General: Casual labour of Kanpur does not have much of education unlike casual labour of Delhi who have good education. Those workers who are members of union have a better lot than those not in unions. The unattached workers have no union. The fear of contractors, ignorance about unions are some of the reasons for not uniting into unions. Among the benefits of the union some workers gave distribution of jobs or assignments among the workers. This is really a feasible reason for forming union of casual labour.

6.6.6 MES Casual Labour: "Condition of casual labour in MES is much better than those working in Railways or PWD. They have facilities like water, electricity, canteen but no toilets. Sometimes, they also get fuel. They have no medical facility. They however, get compensa-

tion for injury. They were brought to Kanpur by jamadar. They migrated because their meagre land holding could not sustain them in the village. Their children still live in the village. Most of them are illiterate. Only a few have school education. Their wages are much better than in Railways or PWD. Female wages are much less than what males get in the MES. They have no knowledge of Minimum Wages Act. They are not unionised, but would like to form their union to get bonus and paid weekly off".

6.6.7 PWD Casual Labour: "Female casual labour are paid one rupee per day less than male workers as wages. For risky job like climbing ladder with building material, wages are higher than others. They have no knowledge of the Minimum Wages Act. Rainy season is a lean period for employment of casual labour. They get no paid holiday or bonus. They have good social relations among labours.

6.7 Taking care of workers' Children:

6.7.1 The practice of hiring husbands and wives, often internal migrants, on construction sites, resulted in children between the ages of 10 and 12 also being directly employed. Those not directly employed took to earning supplementary income for the family by trading on the street. Invariably as these children were around work sites they could not receive any formal education. A number of Non Governmental Organisations (NGOs) and workers organisations came forward to initiate what came to be known as the "Mobile creches Programme" that provided children with a certain level of education and opportunities "to play as children" to support their psychological development.

6.7.2 The first creche was started in 1967. Initially, the organisation faced problems associated with nutrition, basic preventive and medical health care, the need to deal simultaneously with children of pre school to primary school and a chronic shortage of suitable staff. Lack of funding, accommodation, recognition and confrontation with building contractors and Government departments further aggravated the problems.

6.7.3 Overcoming these problems by its own innovative approaches, the creche system has come to stay on an enduring basis. In 1972, a branch of the agency was set up in Bombay and soon, after a short time, day care services were extended to women working in low income jobs. Presently, mobile creches are operating in approximately 50 centres in Delhi and Bombay and between them, these centres cater to about 4000 children on any given day.

6.7.4 The programmes were initially founded by donations from the public and building contractors, occasional international donor assistance and adhoc assistance from the Government. The growing public awareness prompted the Government to initiate in 1974 the "creche for children of working mothers" scheme based on the mobile creche concept. Approximately, 25-30% of the Agencies' annual expenditure is being funded regularly by Government. An important outcome of the

mobile creche system has been the impact it has been able to create as regards day care, needs of children of the poor and public policy. A short note on the scheme is given in Annexe-X

VII. Observance of safety Standards

7.1 Construction is a high accident prone industry. There are extensive safety guidelines and codes prescribed. They deal with the following operations - Excavation, Blasting operations, Erection of prefabricated parts, reinforced concreting, under pinning and shoring operations, structural steel erection, work on tall chimneys, use of scaffolds, ladders, working platforms, diving operations, use of lifting appliances, Building work, pile driving, use of construction equipments, welding/ cutting operations. Tunneling work, painting and asphaltting, demolition etc.

7.2 Since work is seasonal where migratory labour is employed on piece rate basis to perform the assigned tasks and taking into account the tenure of work and methods of wage payment on the piece rate system, the primary concern of the worker is to earn as much as possible, even at great personal risk. The contractors also, on their part, do not observe all the prescribed procedures to ensure the safety of the workers. Thus, between the two kinds of attitudes, a number of accidents do take place. Most of these accidents, including fatal ones, do not always get reported to the authorities concerned.

7.3 It is a sad commentary that when accidents do take place, the affected workers do not get any compensation. He not only loses his job but also has no means to subsist or sustain himself during the period of incapacitation. In the case of the contractor who has engaged him, he only blissfully hopes there will be no such accidents: if per chance, a mishap takes place, his first reaction is to disown responsibility or to get away from it and if at all involved, he would wriggle himself out of it by paying a small sum, more as hush money, rather than as compensation. He treats such occurrences as bad luck and makes up for the loss by cutting corners elsewhere.

VIII. Upgradation of Skills

8.1 There are an estimated 2 crore Construction workers in the country covering Unskilled, semi-skilled and skilled levels and comprising masons, carpenters, bartenders, plumbers, electricians, tile layers, glass fitters, concreting work force, etc.

8.2 A characteristic feature of the construction industry has been that construction skills were transferred from father to son on a hereditary basis, more so for skills of masonry and carpentry. There has been gradual changes taking place over the years, as construction skills are now acquired by the workers as part of on-the-job training. They come to the construction projects as Unskilled workers and over a period of time, working with the main masons at the Con-

struction site, acquire levels of skills which would take them into the semi skilled levels and over the years to become a skilled worker. Normally, a learning curve of the order of 5-10 years is needed for transformation. This process is by and large confined to male workers; attempt is seldom made to upgrade the skills of women workers.

8.3 It has been found that the efforts of the Industrial Training Institutes (ITIS), started long back, had proved to be of no consequence for construction industry. What is now required is a fifth level of training institutional net work below the Universities, colleges, schools, Polytechnics/ITIS which can take into its fold, the training needs of illiterate or semi literate aspiring construction Worker to whom, hands on work experience can be given for various building trades. Such a grass-root level training to construction workers is sought to be provided through the Building Centre Movement, launched in 1988, through the National net work of Building Centres (Nirman Kendras)

8.4 Training in the Building Centres is given covering three classes of workers-skilled, semi-skilled and Unskilled on different construction work areas. Different duration of training is provided for the three groups: (a) for skilled masons/carpenters/barbenders - the period of training would be 2-3 months for Upgrading skills in the field of new technology and alternate building materials (b) for the semi-skilled the training would be for 4 months, and (c) for the Unskilled and Unemployed rural youth the training period would be of 6 months. In this period, an indepth training would be given on various technologies and alternative products.

8.5 During the period of training, the trainees would be given a monthly stipend not less than the minimum wage for the workers. Semiskilled would be paid 50% of the stipend for skilled labourers. The cost would be met out of grants for training and the labour component of costs for production/construction.

8.6 A novel feature of the training imparted at the Building Centre has been that in addition to exposure on traditional and conventional construction systems, considerable exposure has also been given on new and innovative building materials, technologies and Construction techniques to the work force which helped in "Lab" to "Land" technology transfer.

8.7 The Ministry of Urban Development provides a major financial resource with a grant-in-aid of Rs.2 lakhs to each Building Centre through the HUDCO. The latter provides technical support and loan assistance of Rs.4 lakhs in the initial stage. A total loan assistance of Rs 20 lakhs is being made available by the HUDCO for expanding the activities of Building Centres. Out of a total of 273 Building Centres identified, 116 have become functional. HUDCO is also encouraging Construction Workers Unions, NGOS to set up Building Centres, in addition to Housing Boards and Development Authorities.

8.8 Another major initiative for imparting training to construction workers has been through the Nehru Rozgar Yojana (NRY), under which there are training programmes organised for Construction Workers, in 15 specified Construction trades and 8 specified Manufacturing Trades. These are being imparted either through the Building Centres or other local level training network in the Palika Karigar Kendras/ITIS or other institutions, including NGOS.

8.9 There has also been some notable initiatives under taken for imparting training done by the Nirman Mazdoor Panchayat, Tamil Nadu Manila Kattida Thozhilalar Sangam and by the Habitat polytechnic. It goes to the credit of Tamil Nadu Manila Kattida Thozhilalar Sangam that they have started a training course exclusively for women workers to become Masons. Some Non-Governmental Organisations have also specialised in implementing training to the Urban and rural poor on Construction - related trades, primarily for carpentry, welding, plumbing and electrical work.

8.10 Habitat Polytech

8.10.1 For any skill Upgradation, the trainer holds the key. He should not only have the necessary knowledge but also the ability to transfer it to the target group viz., the Unskilled Workers who are mostly illiterate. They require an appropriate transactional mode which has to be evolved.

8.10.2 The training strategy envisaged to be developed by the Habitat Polytech involves a programme of Training of Trainers. This would be at three levels: At Level I: highly motivated master masons (ready in sharing their knowledge) would be identified and trained at the Habitat polytech. At Level II: State-level institutions of Housing Agencies or Construction Workers Organisations shall organise their own programmes for Training the trainers at the district level. For this purpose the Habitat Polytech would be providing support services to the Training agencies, monitor the approaches and validate them. At Level III: In the programme of decentralising up to the taluk/block level, the Habitat Polytech would have an observer status, mainly to identify the gaps in the training, which would help strengthening the training of trainers.

8.10.3 There are proposals to conduct sandwich courses on project management interspersed with periodical reorientation training programmes to keep them posted with latest trends in project management, cost effective technologies and materials.

8.10.4 The Habitat Polytech, in addition to training of trainers and project managers would also be producing learning material-written, audio-visual media posters, etc., in regional languages.

8.10.5 It needs no added emphasis that upgradation of skills leads to increased productivity and enhances prospects of better wages for workers. The Habitat Polytech are expected to provide the necessary inputs for over all upgradation of skills in the Construction industry.

8.11 National Institute of Construction Management and Research (NICMAR)

8.11.1 It is a premier institute for management studies in the Construction Industry. It is incorporated as an independent, autonomous and non-profit educational society. It seeks to promote managerial capabilities of the construction industry in the country. It also strives to increase the availability of professionally trained technical manpower at all levels of the construction industry and upgrade the managerial skills of those within the industry through its programmes of studies, inter-disciplinary research, training and executive development courses and Consultancy. The Institute works to lay a sound professional base for the Construction industry. It tries to develop and innovate management methods and techniques or modify and adapt the existing ones with a view to increasing the productivity and efficiency of the Construction industry.

8.11.2 In so far as its training programmes are concerned, and the technical excellence developed, it stands on par with the Construction Industry Training Centre of Singapore and the Institute for Construction Training and Development (INCTAD) of Sri Lanka.

IX. Extent of Unionisation

9.1 Unionisation in the organised sector in India has not been that impressive as in advanced western countries. Especially, in the Construction Industry, Unionisation has been very poor. In 1987 (latest figures available), out of 7528 Unions, which submitted returns, construction accounted for 212 Unions (2.8%) with a membership of 1,05,000 which was only 1.7% of the total membership of Unions submitting returns. Details are given in Annexe-XI (a)

9.2 The last official verification of Unions affiliated to Central Trade Union Organisations was undertaken by the CLC of the Ministry of Labour for the period ending 31.12.1980 (the latest verification for the year ending 1989 is reported to be under progress). According to the figures available, there were 6543 Unions with a verified membership of 61.27 lakhs. Construction industry had only 157 Unions with a membership of about one lakh. It constituted only 2.4% of the total verified number of Unions and 1.6% of the total verified membership. Details are given in Annexe-XI (b)

9.3 A minuscule analysis of employment in construction industry and the extent of unionisation therein in foreign countries, based on information collected by the ILO through a questionnaire is presented in Annexe-XI (c)

9.4 Why is Unionisation low in construction Industry? The obvious reasons are: the industry is unorganised. Labour force is unstable and is scattered in small numbers across the length and breadth of the country. Work is seasonal and workers are migratory. Moreover, transportation, communications and logistics of project sites make it impossible to negotiate.

9.5 Shri. K.N. Vaid, in an article titled "Investment and Employment in Construction Industry - Role of Trade unions" has advanced valid reasons and most importantly has made the following pertinent observations. Trade Unionism in India is essentially an urban phenomenon. Unionisation commenced and grew rapidly in urban industrial centres and in publicly managed services, i.e., local bodies, railways, shipping, post and telegraphs, etc. The primary motive of leaders to organise labour was commitment to social reform and political ideology. Political unionism was born, grew and prospered. But it seldom touched the unorganised sector of industry. To day, Unions are big power centres and the Union leaders are no less able and no less comfortable than corporate executives. They plan their strategies on cost benefit ratios. Unions in the organised sector, in urban centres and in services are akin to the bread and butter Unions found in the industries of the West".

9.6 "However, Unionisation of construction labour, presently offers neither bread nor butter. It is hard leg work. It involves reaching out to workers in distant and uncomfortable places. It means confronting contractors who are made of tough human quality - engineered by "high risk and roughing out" of their business. The Government can be persuaded to pass new and more legislation, to appoint more Inspectors or to set up more committees to discuss the problems. But nothing can work unless the trade unions themselves become the watch dog of labour's interests. Unions cannot hope to play this role unless their leaders are blessed with the "will to organise" which comes more often, from commitment to an idea, a cause or value rather than to self or personal gains".

9.7 The above then, sums up the failure of the unions to organise the construction labour. It is a problem and also poses a challenge to the growth of genuine trade union movement in the country.

X. Legal Pronouncements:

10.1 There were three landmark judgments given by the Supreme Court relating to Construction Workers. The first related to the construction activity connected with the holding of the Asiad Games in Delhi (1982); the second concerned the contract workers engaged in the Salal Hydro Electric Project (J & K) and the third, though of general applicability has an important bearing on construction industry. This pertained to the Supreme Court Judgment upholding the principle of Equal Pay for work of equal value. These are briefly discussed below:

10.2 Asiad Games (1982):

10.2.1 The people's Union for Democratic Rights (PUDR) addressed a letter to the Supreme Court alleging specific violations of labour laws relating to construction workers engaged for holding the Asiad Games. The letter was treated as a Writ petition by the Court. The specific allegations made were: (a) workers were being exploited by the Jamadars and contractors who were paying them less than the minimum wages; (b) there has been violation of the Contract Labour (Regulation and Abolition) Act 1970, the Inter State Migrant Workmen (Regulation of Employment and conditions of Service Act), 1979 and the Equal Remuneration Act of 1976.; (c) as children under 14 years of age were employed in the construction, it was violative of Article 24 of the Indian Constitution and the Employment of Children Act, 1938.

10.2.2 The Supreme Court, while upholding the right of the PUDR to come to the court on behalf of the contract workers, held that, not giving the benefits under specific labour laws violated the fundamental rights of the workers. The court held that since Government of India, DDA, the Delhi Administration and the New Delhi Municipal Committee (NDMC) were the principal employer(s), they were to be held responsible for the lapses on the part of the contractors engaged by them. The Court also held that if a worker was getting less than the minimum wages, it would be construed as forced labour and violative of the fundamental right of the worker. The Court further held that workers should be paid wages directly by the contractors and that Jamadars or khatedars in the middle should not be allowed to take a commission out of the wages paid to the workers.

10.2.3 The Supreme Court in May 1982 appointed a 3 member team of ombudsmen¹ to inspect the places where the construction work, connected with holding of Asian Games was going on and after ascertaining whether the workers were getting the benefits due to them under labour laws, should report to them, based on receipt of which, the supreme Court would give further orders. In the meanwhile, the Court ordered that Government should carry out inspections and ensure that no labour laws were violated.

10.2.4 The 3 member Team, during the course of their investigations delved deep into the mode of recruitment, working hours, engagement of women and child labour, the unsatisfactory welfare facilities provided

1. The Ombudsmen were the late Dr. Alfred de Souza, then Director of the Indian Social Institute, Dr. Walter Fernandes, then Director of Research, Indian Social Institute and Prof. S. Das Gupta, then Director, People's Institute for Development and Training, New Delhi. The appointment was made on 11.5.82 and based on interviews and other data collected seven reports were sent to the Supreme Court between June and November 1982 and a consolidated report in December 1982.

for them, safety security, accidents and compensation paid therefor. As a preface to its findings, the Team noted "this study is not to be viewed as an isolated incident but as an example of what happens on most construction sites. It is an example of impoverishment indebtedness bondage and powerlessness of those sections, that have been marginalised by the present pattern of development".

10.2.5 The Team found "thousands of tribals migrating and living in conditions of near bondage because they have been impoverished by displacement for development projects such as irrigation dams and factories and by deforestation through industrial clearfelling. Though most traditional construction workers are not bonded, the influence of several million new unskilled workers has deprived the traditional workers of the little negotiating power they had. They are thus forced to put up with much more exploitation than they suffered earlier".

10.2.6 The Team noted that the aspect which came out clearly was the powerlessness of the construction workers. It was not merely a case study of the Asiad construction works but an analysis of the development and modernisation of one small section of Indian Society that has resulted in the marginalisation of other sections and of further strengthening the feudal forces that keep the majority under their control". The Team went on to observe "this powerlessness of the construction workers is further seen in the fact that the Government Officials only echoed what the contractors said and almost always showed an anti-labour attitude. They included labour officers and others who are appointed to protect the interests of the working class. In every case concerning wages, accidents, compensation or working conditions, they gave the version of the contractors in a much stranger way. In other words, one could see at the Asiad sites, as one sees elsewhere, a very close alliance between the exploiting class of contractors and government officials who seem to represent them".

10.2.7 A pertinent observation of the Team related to the role of Trade Unions. The Team noted "Trade unions and other organisations meant to protect the interests of the working class are conspicuous by their absence. In fact, trade union leaders themselves agree that they have concentrated on the less powerless and easier to organise workers in the organised sector and have ignored the labourers in the unorganised sector".

10.2.8 The Team also drew pointed attention to the fact that while estimation of the construction workers varied between 2 million and 10 million, there was not a single law governing them. A uniform legislative governing this group has to be enacted, in order to protect their interests". The Team also made a significant observation that "construction workers and other labourers in the informal urban sector are only a sign of the neglect of the rural areas and of the oppression under which rural people live. Their powerlessness in the village has forced them to migrate and join the urban informal sector where they are rendered further powerless by their immobility and lack of organi-

sation". This was where, the Team had observed that the trade unions had failed in their task.

10.2.9 They cited that veteran union leaders like Datta Samant, George Fernandes, Shankar Guho Niyogi had acknowledged in their interviews that "because of such factors such as exclusive concentration on economic issues, control by and competition between political parties, and the lack of will to fight, trade union have all but ignored the rural poor and the urban unorganised sector. They are the only ones who can support this section in their organisation to demand their rights."

(Source: (1) AIR 1982, SC 1473

(2) Social Action, July -September 1986, pp 264-291)

10.3 Salal Hydro Electric Project versus State of J & K and others

10.3.1 Acting on a news item stating that a large number of migrant workers from different states including Orissa were working on the Salal Hydro Electric Project and that these workers, exploited by contractors, were not given the benefits due to them under various labour laws, the Peoples' Union for Democratic Rights (PUDR) took up the matter with the Supreme Court. The Court treating the letter addressed to it, as a Writ petition directed the J & K Labour commissioner to visit the site and report on the true position.

10.3.2 The report of the Labour Commissioner admitted violation of labour laws by the Central Government and the contractors. Treating the Oriya workers employed on the project as those recruited by the khatedars and brought by them to the work site, the Court held them clearly to be inter-state migrant workmen. The Court directed that the Central Government should make a list of all the migrant workers and to treat them as required under the Inter State Migrant Act, so that all available benefits could accrue to them. The Court directed that Central Government should ensure that contractors provide all the Welfare facilities required of them to be provided to the workers.

10.3.3. The Supreme Court, following the Asiad Workers Case (1982, II, LLJ 4543) held that the workers must be paid the minimum wages directly. There should not be any intervention by the khatedars who generally take a percentage of the wages for advances alleged to have been made by the khatedar to the workers.

10.3.4 The Labour Commissioner's Report had pointed out that almost 50% of the OT wages was taken by the Khatedars and that workers were not also being given a weekly off. The Court directed that a representative of the principal employer should be present at the time of payment of wages. The court also directed Central Government to ensure that every payment of wages, normal or over time, should be made directly to workers without deduction in the presence of an authorised representative. The centre was also directed to pay to the workers in

the Salal Project the minimum wage rate prevailing in the J & K State. The centre was given two months time to implement the court directives and to report back its compliance.

(Source : 1983, I.L.J. 494)

10.4 Equal Pay for Work of Equal Value:

10.4.1 The Supreme Court held "the principle of Equal Pay for Equal Work" was not an idea or theory hanging in the air. It was something concrete and specific. Though it is not mentioned expressly as a fundamental right, it is a goal to reach. Under the Constitution, Article 39(d) of the Constitution declares that equal pay for equal work for both men and women should be followed by the State. It is a Directive Principle. This Directive Principle should be read into the fundamental rights. Article 14 of the constitution declares equality as a fundamental right. The fundamental right of equality would have meaning for the majority of the people only if equal work means equal pay. Wages have an important place and concern in the lives of people. The word socialist used in the Preamble should atleast mean equal pay for equal work if it does not mean "to each according to his need." Equal pay for equal work follows from Articles 14 and 16 in view of the Preamble and Article 39(d) of the constitution. It can be applied when persons doing identical work are paid unequal wages." With the above judgment, the Supreme Court directed Union Government to pay Randhir Singh and other drivers of the Delhi Police Force, the same wages as the drivers of the Railway Protective Force.

(Source: 1982, ILLJ, 344)

10.4.2 Two petitioners, employed by the CPWD on daily wage basis for several years, went in appeal to the Supreme court demanding they should be paid same wages as permanent employees doing identical work. The Court followed the Nehru Yuvak Kendra's case and observed that the Central Government like all organs of the State is committed to the Directive Principles of State Policy and Article 39 which enshrines the principle of equal pay for equal work. The Court also agreed with the decision in the case of Randhir Singh Vs Union of India (reference cited above) and pointed out that "the principle of equal pay for equal work is not an abstract doctrine but a vital and vigorous one, accepted throughout the world, particularly the socialist countries.

10.4.3 The court observed that "the Central Government, the State Government and all public sector undertakings one expected to function like model and enlightened employers. Arguments for nonenforcement of the principle of equal pay for equal work should not come from them." The Court directed "the CPWD to pay the petitions and all other daily rated employees the same salary and allowances as paid to regular and permanent employees with effect from the date when they were respectively employed. The Court also noted "Government would take action to regularise the services of all those who have been in continuous employment for more than six months."

(Source: AIR 1986 SC 584, 1986 I SCC 639)

Other Important Judgments

10.5 Contract Labour Act, 1970:

10.5.1 The Principal Employer is required to obtain a certificate of Registration (required under Section 7 of the Act) and the contractor is to obtain a license under Section 12 of the Act. Workmen could be employed on contract labour only through licensed contractor. Even if one of the above condition is not fulfilled, the position could be that workmen employed by an intermediary would be deemed to have been employed by the principal employers.

10.5.2 A Union of Employees of the Food Corporation of India submitted a Writ petition under Article 226 of the constitution praying that employee/members the Petition Union, working in eleven depots of the FCI, situated in Gujarat State, are employees of the FCI and that they are entitled to get from the FCI, their principal employer, necessary benefits of back wages and all other consequential benefits.

10.5.3 The petition came up for hearing before Justice Mehta of the Gujarat High Court, Citing the judgments in (a) the case of workmen of Best and Crompton Industries vs its Management (Madras High Court) (1985-LLJ - 492) (b) FCI Loading and Unloading Workers Union vs FCI (1987-LLJ - 407) (Karnataka High Court) and (c) FCI Haryana Region vs the Presiding Officer CGIT, Chandigarh (1987-SLR (2),678), the Gujarat High Court, found in the instant case that for certain periods, the principal employer (FCI) did not possess certificate of Registration (Section 7 of the Act) and similarly, the contractor, through whom the workmen were engaged, did not also possess license (Section 12 of the Act). Agreeing with the principles laid down by the Madras, Karnataka and Punjab & Haryana High Courts, the Gujarat High Court decided that because of absence of adequate material and factual data it would deem it not proper to grant a declaration that the workmen were the employees of the principal employer (FCI). However, during the period when both the FCI and the contractor have not complied with the provision of the Act, the workmen could claim to be direct employees of the principal employer (FCI) and make appropriate representation to the FCI to claim necessary benefits. (LLJ, Feb.1992, pp 257-265)

10.5.4 There was thus a direct conflict between the decisions of the High Courts of Punjab and Kerala on the one hand, and the decision of Madras, Bombay, Gujarat and Karnataka High Courts on the other. The view of the Punjab and Kerala High Courts was that the only consequence of non compliance either by the principal employer or by the contractor would be that they would become liable for prosecution under the Act. The matter was set at rest by the Supreme Court which held "it is not for the High Court to enquire into the question and decide whether the employment of contract labour in any process, operation or in any other work in any establishment should be abolished or not. It is a matter for the decision of the Government after considering the matter as required under Section 10 of the Act. The

only consequence provided in the Act where either the principal employer or the labour contractor violates the provision of sections 9 and 12 respectively of the said Act is the penal provisions, as envisaged under the Act, for which reference may be made to Section 23 and 25 of the Act. In a writ petition, the High Court could not issue any *Mandamus* for deeming the contract labour as having become the employees of the principal employer."

(Civil Appeal No 2355/91 with CA Nos 2356-66/91 dtd. 22.11.91 - Dena Nath and Others versus National Fertilizers Ltd and others. (ILJ, Feb 1992, pp 289-296)

10.6 Constitutional obligation enforceable against Central and State Governments under Article 32 of the Constitution

10.6.1 In the *Dandhua Mukthi Morcha vs Union of India* case, the Supreme Court clearly defined its judicial competence to hear and dispose of writ appeals under Article 32 of the constitution. It also enunciated in clear terms the applicability and coverage of the said Article.

10.6.2 Two stone quarries in Faridabad district of Haryana State were reported to have engaged bonded labourers and denying them constitutional and statutory privileges. A public spirited organisation brought this to the notice of the Supreme Court. A three member Bench of the Supreme Court consisting of justice P.N. Bhagwati, R.S. Pathak and A.N. Sen allowed the writ petition (No 2135 of 1982) under Article 32 of the Constitution.

10.6.3 According to Justice Bhagawati "The interpretation of Article 32 should be guided not by any verbal or formalistic canons of construction but by the paramount object and purpose for which this article has been enacted and its interpretation must receive light from the Preamble, the Fundamental Rights and the Directive Principles."

"Whenever there is violation of a fundamental right, anyone - even a person other than one whose fundamental right is violated - can move the Supreme Court under Article 32 for enforcement of such fundamental right, though ordinarily the Court would not, in exercise of its discretion, intervene at the instance of a meddlesome interloper or busy-body and would ordinarily insist that only a person whose fundamental right is violated should be allowed to activate the Court."

10.6.4 "The right to live with human dignity, free from exploitation enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of workers, men and women and the children of tender age against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane

conditions of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live with human dignity and neither the Central nor any State Government has the right to take any action which will deprive a person of the enjoyment of these basic essentials. Where legislation is already enacted by the State providing these basic requirements to the persons, particularly belonging to the weaker section of the community and thus investing their right to live with basic human dignity, the State can certainly be obligated to ensure observance of such legislation for inaction on the part of the State in securing implementation of such legislation would amount to denial of protection under Article 21, more so in the context of Article 256. The State of Haryana must therefore ensure that the mine lessees or contractors, to whom it is giving its mines for stone quarrying operations, observe various social welfare and labour laws enacted for the benefit of the workmen. This is a constitutional obligation which can be enforced against the Central Government and the State of Haryana by a writ petition under Article 32."

10.6.5 Justice Pathak concurring with Justice Bhagwati noted "Article 32 speaks generally of "appropriate proceedings". It should be a proceeding which can appropriately lead to an adjudication of the claim made for the enforcement of a fundamental right and can result in the grant of effective relief."

10.6.6 "Article 32 does not specifically indicate who can move the Court. In the absence of a confining provision in that respect it is plain that a petitioner may be anyone in whom the law recognises a standing to maintain an action of such nature."

10.6.7 "Persons obliged to serve as bonded labour are entitled to invoke Article 23(1). Violation of that article attracts the scope of Article 32."

10.6.8 Justice A.N. Sen observed:

"Whenever any person is wrongfully and illegally deprived of his liberty, it is open to anybody who is interested in the person to move the Court under Article 32 for his release. It may not very often be possible for the person who is deprived of his liberty to approach the Court, as by virtue of such illegal and wrongful detention, he may not be free and in a position to move the Court."

10.6.9 "Forced labour is constitutionally forbidden by Article 23. As in the present case the violation of the fundamental right of liberty of the workmen who are said to be kept in wrongful and illegal detention, employed in forced labour, is alleged, Article 32 is clearly attracted."

10.6.10 "Litigation particularly in relation to bonded labourers is really not in nature of an adversary litigation. Whenever there is any allegation of the existence of bonded labour in any particular State, the State instead of seeking to come out with a case of denial of such existence on the basis of feeling that the existence of bonded labour in the State may cast a slur or stigma on its administrative machinery, should cause effective enquiries to be made into the matter and if the matter is pending in the Court, should cooperate with the Court to see that this illegal system is ended at the earliest."

10.6.11 Other important directions/observations made by the learned judges pertained to the interpretation and applications of certain select Labour Laws. These are:

(a) Mines Act 1952: Stone quarrying held, on facts adduced, covered by the word mines - all workers of the stone quarries and crushers are entitled to the benefits of the Act. Mine lessees and owners are liable for ensuring those benefits to the workers.

(b) Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979: Thekkadars or Jamadars -recruiting labourers for mine lessees or owners from outside states, directly or through lessees or workers already working, are contractors and the person so recruited are inter state migrant workmen. They are entitled to all the benefits under the Act as well as other welfare legislations.

(c) Minimum Wages Act, 1948: Payment of wages less than the minimum wage on ground of less performance or output has been held illegal.

(d) Contract Labour (Regulation and Abolition) Act, 1970: Thekkadars or jamadars in stone quarry held to be contractor; workers recruited by such contractors are entitled to benefits of the Act and the contractor, principal owner as well as central and State government are obliged to ensure compliance with the provision of the Act.

(e) Bonded Labour System (Abolition) Act, 1976: Existence of forced labour will give rise to the presumption that the labour is required to work for some economic consideration and hence is a bonded labourer.

(f) The practice of Magistrates and Judicial Officers in letting off employers violating labour welfare legislation with small fines also came for condemnation by the learned judges.

(SCC3, 1984, pp. 161-243)

XI Need for a Comprehensive Central Law for Construction Labour

11.1 As presently obtaining, there is a plethora of labour laws governing various aspects for regulating work in the construction industry. It is not only the number of laws but the multiplicity of law enforcement agencies which have made the situation worse confounded. Some of the important legislations affecting construction workers are : The Minimum Wages Act, 1948, the Contract Labour (Regulation and

Abolition Act) 1970, the Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 and the Equal Remuneration Act, 1976 and in certain exceptional cases, the Employees Provident Funds Act 1952, the Employees State Insurance Act, 1948 and the Payment of Gratuity, Act, 1972.

11.2 In actual practice, the workmen in the construction industry are totally neglected, hapless and helpless. The nature of the industry, the shifting employer-employee relationship, the seasonal and discontinuance nature of employment, the general apathy and indifference of labour administration and above all, their total lack of organisation have resulted in the bulk of the workmen in this industry not merely being denied their rights and benefits under the statutes, but also even the minimum wages, prescribed under the law. The judgment of the Supreme Court in the Asiad case in particular, was a standing endorsement and strong indictment of the conditions of these workmen, even in the capital city, Delhi.

11.3 It has become absolutely imperative that there should be a central law which would take note of the unique features of the construction industry and would provide not merely for the welfare of the workmen but also for the regulation of employment itself in the industry. Such a regulation, it should be stressed, could not be left to be taken care of by the employers or by the administrative hierarchy but must be entrusted to an autonomous body to be statutorily set up and which could consist of representatives of the workers, Government and the employers.

11.4 Arrangements for regulating employment on the basis of compulsory registration of employer and of the workmen, restriction on employment in the industry to only those workers who are registered under the law to be employed and of the employers who are also registered under the law, equitable sharing of available employment on the basis of rotational booking of workmen, category-wise, vesting of responsibility for determining and disbursement of wages by the autonomous body, provision of all facilities including social security and a minimum guarantee of employment by the said autonomous body, these would be some of the basic features that should be incorporated in the law that should be centrally enacted and implemented through a statutorily constituted body at the national level and for purposes of coordination, the setting up of similar bodies at the level of State Governments/Union Territory Administrations

11.5 All these provisions were incorporated in the Construction Workers (Regulation of Employment and Conditions of Service) Bill 1986, drafted by the National Campaign Committee for Construction Labour (NCC/CL). A unique feature of this Bill has been that it was drafted in a meticulous manner and after careful consideration, with the active participation of construction workers themselves.

11.6 The National Campaign Committee for Construction Labour was set up in 1985 at the end of the deliberations of a National Seminar of Trade Unions, Construction Workers Organisations, concerned individuals and a large number of construction workers, from all over the country. The Model Bill and the Scheme drafted by the Committee was then submitted to the Petitions Committee of Lok Sabha in December 1986, attested by lakhs of signatures of construction workers from all over the country. Even before the Petitions Committee could finalise its report, a Bill was introduced by the Union Labour Minister in December 1988. The Central Bill made no provisions to regulate employment in the Construction Industry despite its title. It also made no provisions for social security or labour welfare as it merely dealt with some safety measures.

11.7 The Petitions Committee submitted its report on 25.7.89. It recommended that "the Bill pending in Rajya Sabha be withdrawn and a fresh comprehensive Bill be introduced so as to cater to the long felt demands of a hitherto neglected segment of the working class." Recognising the in-depth study of the problems of construction workers that had gone into the NCC, CI formulations, the comprehensive nature of its proposal and the provision it makes for an effective implementation machinery on all India basis, through the creation of Tripartite Construction Labour Boards, the Petitions Committee also recommended "that the legislation proposed by the Campaign Committee may be examined, considered and all good features thereof may be suitably incorporated in the Government Bill. The Committee reiterated that "it is for the Government to ensure that the legislation which is finally created encompasses all the above features to the extent practicable". In view of the above recommendations of the Petition Committee, the consideration of the Government Bill was deferred. With the fall of the Janata Dal Government at the centre, the Bill also lapsed.

11.8 It would be worthwhile to recall that during the last three decades, the various sessions of the Industrial Committee - held in July 1968, December 1972 and March 1986 - had emphasized the need for comprehensive legislation and for stabilising employment. The Study Group of the NCL, way back in July 1968, had stressed on the need for a scheme of "decasualisation" of labour and the setting up of Boards to register contractors. Notwithstanding these developments, it was ironic that the Government should come forward with a hurried Bill reducing the need for a comprehensive legislation to that of merely providing a "law on safety."

11.9 Reviewing the developments since then, the need for enacting a comprehensive law for construction workers is very much there and it would require no added emphasis that the comprehensive law should incorporate all the progressive measures suggested in the NCC-CI Bill 1986 and which was also fully endorsed by the Petitions Committee of the Lok Sabha.

XII The Brick Kiln Industry

12.1 It is considered an important auxiliary component of Building and Construction. A basic feature of Brick Kiln industry is that it is essentially rural based, seasonal and shifting in character.

12.2 Workers in the Brick Kilns constitute one of the poorest and weakest sections of rural society. Essentially agricultural labourers, they migrate from one state to another in search of employment in brick kilns during the lean period (usually October - June).

12.3 There is no precise information available about the number of kilns and workers employed therein. The National Labour Institute has estimated that in 1981-82, there were 10,000 large sized brick kilns (covering the areas of Ghaziabad, Faridabad and Delhi) whereas the all India Brick and Tile Manufacturers Federation had estimated 22 000 brick kiln units with 30 lakh work force.

12.4 Brick making is a low technology industry. It is characterised by distinct division of labour. Starting from moulding till extraction of the baked bricks from the kilns, there are four principal jobs/occupations associated with it - (a) Palhera (Moulder) (b) Prajapati (bharai wala) (Loader) (c) Jalai wala (fireman) and (d) Nikasi wala (unloader).

12.5 Workers are recruited through Jamadars or agents of Kiln owners and such recruitment is accompanied by payment of advances to workers for a specified period of employment. The entire family (husband, wife and children) works as one unit for the full brick kiln season. Employment in brick kiln has been notified as a scheduled employment under the Minimum Wages Act by most of the state Governments with fixation of minimum rates of wages (both daily and piece-rated).

12.6 In May 1984, the Union Ministry of Labour constituted a 21 member Tripartite Committee (6 representing the Central Government and 5 each representing State Governments and Employers and Workers organisations) with the Additional Secretary, Labour as its Chairman and the Director General (Labour Welfare) of the Ministry of Labour, as its Member Secretary.

12.7 After hearing the view points of workers and employers and also of the State Governments and the PF and ESI Authorities, the committee came to the unanimous conclusion that there is need for a new legislation separately for brick kiln industry replacing the extant plethora of laws applicable to it. The Committee in its recommendations outlined the broad provisions which should be incorporated in the new legislation. These included, among others, applicability of the Act to establishments employing 5 or more persons, fixation of minimum wages (generally on piece-rate basis), provision of a graduated scale of retaining allowance to be paid to the worker to enable him/her to sustain himself/herself during off season, prohibition of employment of children below 14 years, specified hours of work with provision of fortnightly rest, health, safety and welfare provisions and prescription of comprehensive social security.

12.8 To enable the industry to meet its obligations under the new legislations the committee recommended that brick kiln should be declared as a rural-based industry. It also passed a Resolution recommending relief to the industry through the Ministry/Departments of Railways, Finance, Industry and Energy.

12.9 No separate legislation, as has been recommended by the committee, has however, so far been enacted.

Part II

CASE STUDIES

Introduction

0.1 In part I has been presented an "overview of the construction sector" which has clearly outlined how construction industry, inspite of its 'dominant' position, could not secure for its workers their prime requirements viz security of employment and payment of notified minimum rates of wages; there are other lacunae as well.

0.2 To substantiate what has been stated in part I of the paper, it was decided to conduct a few "case studies". Three Questionnaires concerning respectively the Workers, Employers and Unions were prepared (A copy each of the questionnaire is at Annexe-XI (A)(B) & (C)). Because of paucity of time, it was not possible to adopt any stratified random sampling for selecting units for the study, and also for canvassing the questionnaire (s) through mailing method. As a short cut device, it was decided to select eleven workers (8 men and 3 women), two employers and a union. Interviews were held with the workers directly, whereas representatives of two managements and one union were contacted personally. Their considered views, touching upon various aspects of construction labour, especially on their working conditions, were collected. These are presented as three types of "Case Studies" representing respectively the Workers, Management and Trade Unions. At the outset it may be stated that the views expressed by these sectors are more or less on expected lines; nothing new has emerged from these case studies.

0.3 The National Campaign Committee for Construction Labour, a premier organisation espousing the cause of construction labour got a documentary video film (colour) prepared by Ms.Gargi Sen. The film has captured vividly on the screen, all the pent up feelings of the distraught construction labour. It has also presented the view points of contractors who are the prima donna or the dramatis personnal in the whole drama of construction labour. A few snippets from the scripted film are reproduced in this section.

Case Studies

1. From the Worker's Point of View

1.1 Bansi Lal Belonging to S.C. and hailing from Rajasthan. 48 year old Bansi Lal is firmly settled in Delhi for the last 25 years. A literate worker he had to discontinue studies at school, due to poverty; and because he had to support his large family at home, he migrated to Delhi. He is married and has 4 sons and a daughter.

1.2 He is working as a mason for the last 10 years in the Jk Housing Society construction near Bani Bagh, Pitampura, Delhi. His eldest son is also working as a Beldar at a different work site.

1.3 Although he is paid minimum wage of Rs. 60 per day (he would get continuous work for only 15 days in a month); his wages were paid sometimes directly and sometime through petty contractor. He stated that his salary was never paid in full and only part wages were paid to him. He was engaged on overtime (OT) for which he was paid OT at double the rate. He is living in a Jhuggi, which is situated 2 kms from the work site. According to him, there are no welfare facilities provided at the work site. Being not a member of any trade union, he was least interested in Trade Union activities.

1.4 Krishna Sharma A migrant worker, (belonging to SC) from Katihar district of Bihar. Krishna Sharma came to Delhi in 1992 in search of a job. He had studied only upto class II. Being only 17 years old, he was engaged by a Tekkadar as an unskilled worker. He later became a semi-skilled worker in the construction project of Fly over at Chirag Delhi. He was assigned the job of fixing wires on iron rods and for doing mixing work. He gets work for 23 days in a calendar month. Besides regular hours of work, he was also engaged on O.T. The Tekkadar pays him the wages. Sharma never got his salary in time. Although payment was delayed, he got all the dues paid to him but only after waiting for 2-3 months. In spite of his being engaged in semi-skilled work, Sharma got only the minimum wage of Rs 28 per day, as applicable to a child labour. There are no facilities worth recording. A tin shed dormitory type of accommodation has been provided. There is no rest shelter nor any canteen facility available at the work site. Sharma does not belong to any union although once he joined a demonstration party to press for timely payment of wages.

1.5 Seemanchal Maharana Belonging to Khurda district of Orissa, Seemanchal Maharana has 2 bighas of land in his native village. Since his village was ravaged by floods and unable to support himself, Maharana migrated to Delhi in 1992. He is illiterate and unmarried. Ascertaining where all construction work is going on, Maharana got the present semi-skilled job of a shutterer by talking to the contractor at the work site DDV flats construction going on near Phulkalam, Sultanpuri.

1.6 Maharana could get employment only for 22 days in a calendar month. His minimum wage was Rs. 35/- per day. The wages are not paid in full and in time; sometime they are paid 3 weeks after they became due. The contractor, however, makes initial advances and when he gets the money from the Bank, he clears all the dues, Maharana lives in a small tent, but it is in a tattered condition and when it rains, he had to rush to a safe place for shelter. Maharana is a member of the trade union functioning in the unit. He occasionally attends union meetings.

1.7 Ram Lal Sharma Belonging to village Nabhatta in Gonda district of U.P., Ram Lal Sharma (aged 26) migrated to Delhi in 1990 in search of a job. He has studied up to class VI (middle fail). He is married and has 3 children. He is working alone at the work site, as his wife and children are away in their native village.

1.8 Starting as a watchman, Ram Lal is presently working as a carpenter (skilled) in the construction work of DDA flats at Phutkalan, near Sultanpuri, Delhi. Sharma would get work for 22-23 days in a calendar month. Although entitled to Rs 45/- per day as wages, Ram Lal never got his salary in full or in time. The site-in-charge disburses the payment. Ram Lal apprehends a lot of mismanagement. Even if an implement or tool is lost, deduction is effected in wages. Residing at a place far away from the work site, Ram Lal had to reach his place of work by cycle. Although not a member of any union, he was once asked by a union member to pay Rs.2/- as chanda which he did, but subsequently he stopped paying it.

1.9 Ram Piyari An illiterate married woman, belonging to SC, Ram Piyari hails from village Dauris, post Nangaon, Chhatarpur district in U.P. After marriage, she was forced to accompany her husband who was at that time in search of a job at Delhi. She migrated to Delhi in 1985. She has 3 children. Her husband who was originally a mason changed his job. He has now become a petty contractor supplying labour at different work sites.

1.10 Ram Piyari is presently working as a Helper (unskilled) in the construction work at sector III, Avantika, near Rohini. Her husband, being a petty contractor, recruited her for the present job. Although there was work, her husband being the petty contractor for supplying labour Ram Piyari attends work for around 25 days only in a month.

She takes her youngest daughter (3 years) along with her to the work site. She gets Rs. 30 per day as wages. Ram Piyari complained that wages were usually never paid in full. In her case, however, since her husband is himself the petty contractor, she gets her wages in tact, but always as a delayed payment. There are times when she is engaged on O.T. for which she is paid at ordinary rate only. Even this amount was some times not paid to her.

1.11 Ram Piyari is an active trade unionist. She attends meetings of unions at 3 places - Phutkalan, Hridayapur and Sector III jbuggi. No union membership fee was collected from her. She takes active part in marches, demonstrations and once took part in a dharna at Pitampura Police Station. Being a robust lady, she could boast of carrying loads of cement and 16 bricks at a time. Maternity never came in the way of her leaving the job. She took leave only during actual confinement and within 2 months she was back on duty. There are no creche facilities available at the work site, although Ram Piyari never felt any need for it.

1.12 Shambu Sharma He migrated to Delhi in January 1993 because his brother is actually working in Delhi. Belonging to Katihar district of Bihar, Shambu is illiterate. Through his brother's influences, who is working in the same unit on Chirag Delhi fly over bridge construction, he could get the job of Setter and Moulder (semi-skilled). He could get work only for 25 days in a month. In a day, Shambu works for 12 hours; for the extra time outside working hours, he was paid Rs 5 per hour. Single and unmarried, Shambu is quite new to the job. He has not given any thought of joining any union so far.

1.13 Ram Lal Bailing from Chhattarpur district, Ram Lal migrated to Delhi in 1986. He comes of a poor agricultural family. He is illiterate. He is a married man with 6 children - 3 boys and 3 girls. He is doing the job of a labourer (unskilled) in the construction project of DDA flats in sector 7 of Rohini. Originally his wife was also working with him but presently she is unemployed. He could find work for only 20 days in a calendar month. He brings his children to the work site. His eldest son is also working as a helper in the same unit. Ram Lal earns Rs 40 per day. He has no complaints to make as his wages are paid in cash every week through the petty contractor. Though engaged on over time, no extra wages are paid to him. The welfare facilities are not worth recording as no much facilities are provided by the management. Ram Lal is an active trade union member. He willingly pays Rs.2/- as union membership fee every month. He also takes an active interest in union meetings and legitimate demonstrations staged by the Union.

1.14 Abdul Samsad Bailing from Bijnore (U.P.), Abdul Samsad migrated to Delhi in 1976. Before migration, he was a machine attendant in a flour mill. He had also served as a mason in the U.P. State Bridge Construction Corporation. Presently he is working as a mason (skilled category) in the construction work of a fly over bridge at Chirag Delhi. Married, Samsad has 3 boys and 3 girls of whom 4 are attending schools. He gets continuous employment for 25 days in a calendar month. When engaged on over time he was paid Rs.10/- per extra hour worked. Though, illiterate Samsad takes active interest in trade Union activities. In fact, though no union is functioning in the unit where he is working, he is a member of the State Bridge Mazdoor Sangh for which he gives Rs.14/- per year as membership fee.

1.15 Ram Piyari This is more or less a familiar and common name amongst the workers. Belonging to the Yadava community, Ram Piyari migrated from Bhabhua District in Bihar (formerly Rohtas) in 1962 and since then she is in Delhi. Her economic condition was so bad that she had to come to Delhi all the way for a labourers job. She is illiterate. Married, she has 4 children. Her husband and eldest son are also working with her in the same unit (Construction of DDA flats in Phul Kalan, near Suttamari). She got the job of a helper through a petty contractor. Her other children also accompany her to the work site. She earns Rs.28/- per day and her wages are paid fortnightly in time and in full. There is no discrimination in payments made and no deductions were made while settling her dues. Though engaged on over time, no extra payment is made to her. She is a member of a trade union, paying her union membership fee of Rs.2/- per month. She was all praise for the union of which she

is a member. She was not satisfied with the welfare facilities required to be provided by the management. She was particularly critical about the absence of creche facilities, as this affected her and women like her similarly placed.

1.16 Arjun Lal Illiterate and belonging to SC, Arjun Lal was a migrant from Dausa (Rajasthan) He migrated to Delhi in 1990. Before migration, he had worked as a mason. He was taken as a mason in the unit where he is presently working (Construction of Golden Hospital in sector III, Rohini). This is a skilled job and he gets Rs.60/- per day with attendance allowance. His wife is also working in the same work site. He has 2 children and they also come to the unit to assist him. He has work for about 20-22 days in a calendar month. He is quite satisfied with the timely disbursement of wages every week in the presence of the contractor. Whenever engaged on OT, he was paid Rs.10/- per extra hour worked. He owns a jhuggi which is very near to the work site. He is an active member of trade union for which he pays Rs.2/- as membership fee. He attends union meetings and takes active interest in union affairs.

1.17 Munni Belonging to Yadhava Community. Munni migrated to Delhi in 1979 from Chhatarpur District (Mahobha) U.P. She lost her husband in Delhi in 1991. He was working as a mason in another unit. As a widow, she has now to support 3 boys and a girl. Raj Mistry, the contractor was good enough to give her a job as a labourer in the construction work of DDA flats in Sectors III and VII at Rohini. She could find work for only 20 days in a calendar month. Although she brings her children to the work site, they do not actively help her. She stated that wages are paid in time but they are not paid in full. She was quite critical of the attitude of the management in that even if she takes half an hour extra for attending to her young children at the work site, half a day's cut in wages is effected. There were also no welfare facilities provided at the work site. She seemed an aggrieved worker as she felt, as a widow, she has been discriminated against by the harsh treatment given to her by the management.

1.18 General Observations It would be seen from the above workers' profile that the 8 male and 3 female workers taken up for individual case studies were all migrants - 4 from U.P., 3 from Bihar, 2 from Rajasthan and 1 each from M.P. and Orissa. The husband and wife combine usually worked as a team, some times even with their children. There has been engagement of child labour, although management would very much like to deny it.

1.19 The working hours were more or less uniform - 8 hours a day - 48 hours a week - with one hour rest interval - and engagement of workers on over time was also not uncommon. Payment for OT was however different. It varied from unit to unit. There has been no complaint of open discrimination as between sexes in so far as applicability of minimum rates of wages was concerned. Payments were however, not made in time and sometimes not in full. The petty contractor who brings the labour to the work site has always a large say in the matter. In fact, he invariably holds the whip hand.

1.20 Welfare facilities are not at all satisfactory, if not totally absent as is evident from the complaints voiced by the workers, especially the women workers. Absence of creche facilities and separate rest shelters, made it inconvenient for women workers.

1.21 The facts, as revealed by the case studies, only reinforce the arguments and a strong case for a comprehensive and unified central law on the subject with obvious emphasis on 'security of employment'.

2. How Management looks at it

Messrs Tirath Ram Ahuja

2.1 A huge red edifice, multi storeyed office Building - the India Habitat Centre - is fast coming up at the junction of Max Muller Marg and Lodhi Road, near the Air Force Bal Bharati School in New Delhi. The building work started in 1989 and is expected to be completed by the end of 1993. The estimated cost of the project is Rs. 28 crores. The construction of the project was entrusted to the reputed contracting firm M/s. Tirath Ram Ahuja, under the Item Rate fixed payment contract. They have only the civil works contract given by the Ministry of Urban Development. There are other sub-contractors for providing necessary fittings required for completion of the building complex.

2.2 At the project site, about 1000 labourers are employed, of whom nearly one fourth are females. They are all unskilled workers and generally called coolies/beldars. They help the carpenters, masons in carrying implements and tools for them, carrying cement, bricks and in spraying water. There is employment through out the month, though if a particular category of worker is taken, they are actually engaged for about 20-25 days in a month. There are seasonal variations and as such employment figures ranged between 750-1000. There is no clear cut demarcation as to how many are regular or casual as work at the site is taken up and completed by stages.

2.3 Regarding recruitment of labour, the management is faced with no problems in getting the required number of workers; the requirement is indicated in the Notice Board and the Foreman and other skilled workers get the management the required labour force.

2.4 The women workers who are mostly of the unskilled category, usually accompany their husbands and serve as helpers to them at the work site. The piece rated jobs are usually given on sub-contracts and these include: plastering, ceiling, reinforcement and brick work.

2.5 There are no food items as such given on concessional terms. It was made clear that only where market facilities are not available and the workers are asked to work in inaccessible areas, they are supplied with kerosene, food grain supply, etc. These are only on rare occasions.

2.6 Working time at this Unit is 8 hours a day starting at 8.30 in the morning with an hour's break for lunch at 1 pm. The work continues thereafter till 5.30 pm. (summer) and 5 pm. (winter). During the winter, the work interval (lunch time) is reduced from one hour to half an hour. The unit is having one and half shift system i.e., work could continue after 5.30 pm. but should stop at 9.30 pm. The exigencies of work demand workers to be put on OT for which they are paid at double the rate of wages (only semi-skilled and skilled workers are put on OT).

2.7 The management admitted occurrence of accidents in which case compensation is paid. There has been no fatal cases reported. Some of the workmen (skilled) are insured (Oriental Insurance of the GIC involved) and in case of accidents they get insurance benefits. Workers are given protective gadgets such as belts, gloves, rubber shoes protective eye goggles shields, etc. They usually observe the safety rules. But accidents could not be ruled out especially from falling objects and where workmen are engaged in scaffolding and platforms.

2.8 Minimum welfare facilities are provided which include provision of drinking water in stored tanks. There is only an apology of a canteen (of dhaba type) serving tea and (usually workers bring their own lunch packets with them). There were no rest shelters. The management in a lighter vein noted that since the building is under construction and some parts of it are already completed workers (including women labour) could and in fact do take rest more comfortably in such rooms which are already cemented and plastered.

2.9 Excepting for a first aid box, no other medical facilities exist though the management claims that supervising and skilled workers are in fact reimbursed, if they submit any medical claims/bills.

2.10 In this unit, though women are in employment, the management has admitted that it pays no maternity benefit as no woman worker preferred any such claim! An expectant woman at the approach of her confinement leaves her job, goes to her home (village) and after a month or two returns to work, if at all she decides to rejoin. No claims for maternity benefit as such were made nor any such claims were entertained by the management.

2.11 The management has made it clear that payment is made as per the statutory requirement (s). Payment is made every fortnight on the 5th and 20th of the month. The payment is disbursed in the presence of the cashier of the contracting firm. There are usually no complaints. Where a worker feels aggrieved, he or she has direct access approach to the Chief Engineer at the Project site.

2.12 The management expressed obvious relief that there is no union functioning in its unit. Nor was it eager to have one, as work is going on smoothly as per set pattern and plan. The workers know what they would get and the duration of it; they do not have any need for a union to fight for their cause. Moreover, the workers could freely approach the management to redress any grievance arising out of short payment, less wages paid, etc.

2.13 The contracting firm, established in 1950, has claimed no trouble at any of its work sites. They want more mechanisation and adaptation and adoption of new building technologies and employment of only minimal labour component.

Uni Tech Ltd.

2.14 The second unit, from the employer's side taken up for the case study, related to Messrs Uni Tech Ltd. This building contractors firm undertakes construction of buildings of its own, as well as on contract from Government Departments and other Agencies.

2.15 This unit has been entrusted with the building of the August Kranti Bhavan (a multi storeyed building with architectural commercial complex) at Bhikaji Cama Place, near Ramakrishna Puram, in South Delhi.

2.16 The project was assigned to this contracting firm by the HUDCO. It was given this contract under National Industrial Development Corporation (NIDC) agreement as project Managing Agency on behalf of the HUDCO. Messrs Uni Tech has taken up only civil works contract whereas other ancillary furnishings and fittings, plumbing, carpentry, electrical and other fixtures could be done by other contracting firms. Started in 1980, the complex is expected to be completed by March 1984. The cost of the Project, pertaining to civil works only, is estimated at Rs 12 crores.

2.17 On the employment side, the project engages an average daily complement of 400 work persons of which just about 10% were female workers. The latter are principally engaged in helping concreting and cleaning operations. Workers in this site have continuous work for 22-23 days in a month. Most of the workers are casual - the regular workers constituting just above 10% of the average daily strength (belonging to the contracting firm and borne on the monthly staff strength).

2.18 The contracting firm has a system of engaging labour contractors who look after the requirement of necessary labour at the work site, on daily and contingent basis. The wages paid to workers are governed by the minimum rates of wages notified by the Delhi Administration, currently in force. Since the work site is in the heart of the city itself, the management claims no need to provide workers with any concessional items - be it food or fuel. The working hours at this site are as per the rule laid down i.e., not exceeding 9 hours a day, 48 hours a week with a daily rest interval of one hour (as lunch break). There is only one shift system followed and for extra hours worked (the semi-skilled and skilled only are drafted for this), they are paid extra wages at double the normal rate.

2.19 Excepting the monthly paid regular staff, others do not have any holidays with pay. The management has been candid enough to say that excepting provision of wholesome drinking water no other welfare facilities are provided at the work site as they claim most of its work force are from nearby Jhuggies and as such they are not in dire need of these

facilities. There are no creche facilities provided and maternity benefit claims were neither submitted nor entertained by the management. The management was slightly sarcastic about formation of Unions. Question of recognition comes only after that.

2.20 There is no active Union functioning. Whatever complaints (such complaints are almost minimal, mostly pertaining to payment of less wages) the workers choose to make, these are brought to the notice of the site manager/engineer who resolve them amicably and to the satisfaction of the worker. In the opinion of the management, workers at the site require no help from the union as they are more concerned in earning their daily bread than raising slogans or flocking under any banners.

2.21 This contracting firm means business and they have made bold to say they meet a few of the requirements under the Model Rules. According to the management, adherence to time schedule and completion of the project within the stipulated time is their prime and only concern. They face no special problems as labour supply is ensured and work goes on smoothly and uninterruptedly. They are registered and have taken special licenses for executing specific projects.

From The Union Angle

National Building Construction Corporation (NBCC) Workers' Union

3.1 There are three Unions functioning in the NBCC. As a result of the elections held recently, the management has accorded recognition to two Unions, one of which is the NBCC Worker's Union (functioning for the last 27 years) and which has been the Union selected for the Case Study.

3.2 The Management consults the first Union on vital policy matters and for all other issues, both the Unions (including the newly recognised Union i.e., the NBCC Workers Union) are consulted. Recognition came by the way, to the NBCC worker's union only in 1993, and it was a hard fought victory for the union. The NBCC Worker's Union has a claimed membership of 600, of which women numbered only 35 (most of these belong to the clerical cadre; the rest (about 10 or so) are unskilled workers).

3.3 The NBCC workers' Union submits its annual returns regularly. By way of contribution, it takes a fee of Rs.25/- for a year, collected by an authorised Union functionary and for which a receipt is also given. The workers' give the contribution willingly - there is neither reluctance on their part nor any coercion or compulsion exerted by the Union on the members to pay their contribution. It is an admitted fact that mere chanda collection could not sustain the Unions' budget and finances. The NBCC workers Union have two Members of Parliament as their Chief Patron and Patron. For special and extra-ordinary meetings, the union collects additional money or special contribution to meet expenditure incurred in organising special/arranged meetings.

3.4 The Union, it is given to understand, utilises the funds collected by way of normal contributions and special collections purely on Trade Union activities. It convenes meetings at frequent intervals at the work premises, for which purpose, prior notice is given to the management as well as a copy of it sent to the law and order authorities of the locality. The Union meetings, as claimed by its President, are usually largely attended.

3.5 By way of explanation as to how its finances are managed, the President of the Union readily explained that the finances of the Union are neither strong nor healthy but whenever high dignitaries including political leaders are invited to preside over the meetings, the management is approached and mostly of its own accord, the management lends a helping hand by meeting the expenses. In that way, the President of the Union, has admitted the reasonable understanding and cooperation extended by the management to the two recognised unions, including the NBCC Workers' Union for their legitimate Trade Union Activities.

3.6 It would be relevant to mention here that the rival Union(s) which consist mostly of the unskilled and semi-skilled category of workers, and who are illiterate, are drawn more by the lure of populism. They are exacting, highly volatile and oval in their demands. They also make no bones about organising violent demonstrations to secure their objectives. The NBCC Workers' Union, its President has claimed, is more balanced and reasonable and prefers to adopt a reasonably conciliatory approach in solving outstanding problems. The Union President has, however admitted, that he has to contend with the questionable activities of the rival Unions, but as he put it, these are all part of Trade Union politics and mechanics to achieve results.

3.7 The President of the Union is a white collar worker (He holds the post of Assistant Accounts Officer in the NBCC). He was elected as President of the Union and functioning as such for the last about two years. It would be interesting to note that he also belongs to and is a member of the officers' association. This has not clashed directly with his being a member of the NBCC Workers' Union. As explained by the President, there is a basic difference in the two memberships - in the case of Officers' Association, one holds a titular membership as there is no specific form to be filled up whereas these are conditions binding on the membership of Trade Unions.

3.8 The President of the Union appear soft spoken and amiable but he combines in him all the qualities of a leader and good negotiator. Where persuasiveness was required, he had shown it in good measure and where tact and resourcefulness and toughness in negotiation are called for, he has not failed his Union. He has admitted that besides battling with the rival union, he has also to extract concessions from the management in general and in particular from a stickler to rules as the CMD of the NBCC is. He also knows that occupying the position as President of the Union, the workers entertain high hopes and expectations from him. He has to be dextrous and cautious in his dealings with the management.

3.9 The President of the Union has claimed that workers usually come to him to settle cases of transfers, leave with wages, correcting less payments and for posting at good work sites. All these, he had to attend to, showing firmness, fairness and a measure of impartiality. Above all, he has to settle them to the workers satisfaction which is the most unenviable task. He seemed happy that he has been able to perform his duties as president of the Union diligently and honourably.

3.10 The president of the Union has been candid enough in admitting that nothing tangible could be done for women workers. He hastened to add that in his opinion, the specific job and the types of work allotted to women workers do not carry with them any prestige, pride, status or importance. However, for the other semi-skilled and skilled, he was happy to record that he could persuade the management to agree to nominating a few of them for Apprenticeship Training Course at the ITI's and other designated Institutes. This, he considered, as a signal achievement, in his capacity as president of the Union.

3.11 According to the Union President, at the meetings convened by the Union, many issues crop up, including those relating to provision of welfare and other facilities to workers at the work site. The Union President admitted that there is scope for further improvement in provision of toilet and other welfare facilities. He had no special complaints, as President of the Union, against the management regarding (a) Payments made to workers (normal wages and OT payment) (b) Maternity benefit payment to women workers and (c) Creche facilities for women workers.

3.12 The President of the Union was not quite enthusiastic about establishing links and affiliations with Central Trade Union Organisations. He opined that the thinking and ideology and concept of Trade Union activities and functioning of the Central Trade Union Organisations and their regional formations are more politically slanted and they are not in tune or conformity with the ground realities of the workmen at the plant level.

3.13 The president of the Union has firm faith in collective bargaining as, according to him, it is the surer way of settling outstanding issues between workers and management. He was non committal when specifically queried whether Union functionaries do take money from workers to fight out individual cases. He vehemently denied any such dealings in so far as he, as President of the Union, or for that matter, any other office bearers of his Union, was concerned.

3.14 The president of the Union expressed the view that Trade Unionism has taken roots in three premier public sector units in the Building and Construction Industry viz., the Equipment Projects India (EPI) the National Projects and Construction Corporation (NPCC) and the National Building Construction Corporation (NBCC). As far as his Union is concerned, and about its objectives and activities, he is of the firm view that it would extend total support to all legitimate Trade Union activities and demands. As a case in point, he referred to the July 27, 1993 strike police served on the management and the Dharna staged by his

union on the 5th August 1993 to press for their legitimate demands. His Union, he claimed, has also shown complete solidarity with the all India strike of public sector units called by all the Central Trade Union Organisations, excepting the INIUC. He is all for furthering Trade Union activities and in fostering Trade Union movement in the Construction Industry, which he felt is very much needed for that industry.

4. Snippets from the Documentary Film.

4.1 Despairing Nanhilai " We left the village and came to the city because it was impossible to survive in the village. In the city at least we can earn daily wages, fill our stomach and clothe our bodies. We do not have any land. In the village we are oppressed. Even if we borrow Rs.100 we have to pay Rs.5/- as interest per month. How could we manage?"

4.2 Distraught Rampiyari "Work is very hard. The whole day we have to fetch and carry. But, we do not get our wages properly. They fob us off with excuses."

4.3 A harried woman from Madras "At any time if we slip and fall, we have had it. Our children will be helpless. When we leave for work, we do not know if we will return. If we slip on the ladder, we are gone; no one will be around to look after our children. No fixed job, only 3-4 days of work per week. No pucca house. No water, no creche facility. The pump water makes us ill with cold and malaria. Drinking water is not available and often mixed with sewerage water".

4.4 Bewildered child worker (Dasharath) "My mother works as a Beldar and my father is a mason. We are four brothers. I had eight sisters who all died; one by one when they were about a year or so old. I study here in the city and my brother grazes goats in the village".

4.5 Male Workers Solanki and Munuswamy Solanki "It is very difficult to get work. Many just sit idle. Many have started to pull rickshaws to earn daily bread. Children go rag-picking to survive. There is no work and no money. We get work for 10-15 days. No one gets employment for the whole month.

Munuswamy In Tamil Nadu, the Nehru Stadium was built by the Government at a cost of Rs.40 crores. But minimum wage was not paid. A woman unskilled worker was given Rs.25 and the male Rs.30. Accidents take place often. When a person dies, it was not shown as an accident as they have to pay compensation. It was shown as a heart attack. Even the doctor lies"

4.6 A worried mother Rampiyari "I have 3 children. If I don't work what will they eat? I get Rs.30 a day. The ration rice is Rs.5 a kilo, wheat Rs.3-4. And the ration people chase us away. They ask us to take our cards and go. Even if we take a lay off from work, there is no surety of getting the ration."

Part III

Structural Adjustment Programme and its Impact on Labour in the Construction Sector

1. The New Economic Policies that the Government of India had embarked upon over the last two years could be broadly dealt with under two heads: namely, stabilisation and structural adjustment. Stabilisation programme essentially deals with problems of fiscal deficit, exchange rates, convertibility of the rupee and so on. The steps so far taken to deal with these problems, and these were taken up first, are irreversible in nature in the sense that these steps were taken at the dictates of short term capital inflow which can be withdrawn at any time. Apart from that, reduction of fiscal deficit (and budget deficit) has led to a considerable reduction in outlays, both capital and revenue, resulting, in our context in reduced outlays in sectors which accounted for bulk of the government and public sector construction activities, as also reduced outlays for social sectors for the benefit of the poor and unorganised.

2. The structural adjustment programme essentially involved liberalisation of licensing procedures. Industrial licensing has been abolished except for a short list of 18 industries. Existing schemes of registration such as registration with DGTD, Textile Commissioner and Development Commissioner for Iron and Steel have been abolished. MRTP Act has been amended to remove the threshold limits of assets in respect of MRTP companies and dominant undertakings. The number of industries reserved for the public sector has been brought to 8, involving strategic and security concerns; privatization has become the buzzword. A part of government's share holding in the public sector has been offered to mutual funds, financial institutions; the general public and the workers. Procedure for permission for foreign technology agreements in high priority industries upto a certain financial limit, has been considerably liberalised. Direct foreign investment has been welcomed.

3. The impact of these policy changes on labour, even in the organised sector, is not fully clear. However, that all these will result in reduction in employment and consequent throwing out of the workers is not in doubt and is well recognised; the need for a safety net to protect these workers is evident by the creation of the National Renewal Fund. This fund has now been used only for paying out compensation to workers in the NTC, DTC, etc., who quit under voluntary retirement schemes.

The logic of the new economic policies is something as follows: Liberalisation means competition, and competition will not be merely from within the country, but from outside also. New firms will come and old firms may go. All these will result in a certain displacement of labour; it cannot be wished away. Large numbers of persons may be laid off and factories may be closed down as a result of competition, but all this is, hopefully, in the short run. How long or short this phase will be, depends on other factors to tide over on this and get on to the second phase as quickly as possible, may be three years. At the end of the

4.7 A disabled worker: "Accidents happen; but I have never heard of any one getting compensation. Sometime back, one of our friends had an accident. He was from U.P. and used to work as a mason. At Rohini, a cooperative housing was being built. He was working in the 7th floor and fell down. He was paralysed from waist down. He had not yet received any compensation but the union of which he is a member is fighting his case in the court".

4.8 Union leader Geelha (from Madras) "It is an ancient and traditional industry where you find that skills have grown because of the artisans. In fact, skill is imparted through the artisan. With the coming of the British, this contract system came and the Public Works Department started the contract system. It is a colonial kind of a system; this new class known as contractors. Their only qualification is that they have liquidity. They do not have any scientific knowledge. None of the labour laws is implemented in any construction site. One basic problem in these laws is that victimisation of labour force for complaining about violation is not taken care of: so, if one complains about non payment of minimum wage, he/she stand the risk of losing the job tomorrow.

4.9 A contractor (Ravi Wig) "I find that the Builder is getting a very raw deal, a very bad publicity and bad name. Have you heard during the last 45 years, of any picture, any video, any story, any novel, any news paper report saying that a contractor is a good person? If ever, the story would be that a contractor is bad. It is a planned move of certain interested people who are living on the contractors to paint a picture so that no body could point a finger at them. In this, you can count right from top politicians, ministers, down to engineers, police, to every body. "you work from 7 in the morning to 7 in the evening in the hottest, coldest the worst possible weather conditions and worst possible circumstances. We are the one to take maximum risks. And the profit we earn is a very legitimate and reasonable profit."

hopefully short first phase, it is expected that we enter the 'glorious' second phase where we have got over the structural adjustment problems and get on to activities where there is growth and there is increase in employment because the system will be able to generate surpluses in these activities which can be used to start new activities and generate more and more employment. The strategy in the long run, according to one view, can be to have industries broadly divided into two sectors: one what may be called the "modern sector" which is high-tech, most modern capital intensive industry where generation of employment is not the purpose at all, but generation of surpluses which can be used in the second category of industries which is employment generating, so as to utilise the surplus of the first category of industries to meet the requirements for generating employment in the second sector.

4. Logical and attractive as all these may sound, the immediate problem is how long the first phase will last before we enter 'the glorious second phase'; is it going to be as short as three years or much longer? Even if it is to be only three years i.e., till 1993-1994, what will be done to get over the difficulties arising out of not merely direct loss of employment (in the organised sector) but indirect consequential unemployment (in the unorganised sector). Dr. Sudipto Mundle of the National Institute of Public Finance and Policy has analysed the employment effects of stabilisation and related policy changes in India: 1991-92 to 1993-94. Dr. Mundle concludes, *inter alia*, that the adverse impact of the stabilisation programme on overall employment will be quite severe, especially if the foreign trade situation continues to deteriorate. Pointing out that this impact will not be dispersed evenly across all sections of the economy, he states that "Much of the reduction in employment attributable to stabilisation is therefore, likely to occur in the unorganised segment of non-agricultural economic activities.. Dr. Mundle estimates that "even under favourable conditions the stabilisation programme would result in about 4 million additional unemployed persons each year during the next couple of years. Under less favourable conditions, the extra unemployment could go upto as much as 8 to 10 million persons."

These are staggering figures and any discussion that confines itself to the organised sector of employment (where, according to Dr. Mundle, though one may not fully agree with him, it is unlikely that jobs would be easily lost, because of legal protection and organisational strength of the workmen and the salaried class) would be unrealistic.

5. One shudders to think what the magnitude will be if the first phase continues even after 3 years. Indications are that it may - all that was excepted to happen, namely, improvements in exports and consequent improvement in trade balance, foreign direct investments, industrial growth etc., have not materialised to the extent expected; only the inflation rate has come down and along with it the fiscal deficit. But, even the latter has been at considerable cost. Public outlays and investment in activities related to construction have been considerably cut, leading to reduction in off-take of cement and steel; all these no doubt affect employment of construction workers considerably.

6. Apart from these, modern construction technology and use of new building materials including pre-fabricated material would also affect the employment potential of construction workers. It may be desirable to study in depth the impact of these developments on employment in the construction sector as also need for training and upgradation of skills of the workers.

7. But yet, construction being the basic activity in all developmental and non-developmental activities, employment in this sector, particularly of the skilled workers, must increase. The National Housing Policy document states that "The housing shortage is estimated by the National Buildings Organisation in 1991 to be about 31 million units, composed of 20.6 million in rural areas and 10.4 million in urban areas, with the bulk of the back-log consisting of kutcha unserviceable units." It has been projected that in addition to this backlog, over the Eighth Plan period, the shelter requirement by way of upgradation and new construction would be 122.2 lakh units in rural areas and 95.5 lakh units in urban areas. These are massive figures and even partial fulfilment of the requirement will call for equally massive employment opportunities for construction workers.

8. To regulate employment of the construction workers to ensure equitable opportunities for work among them, a systemic change is called for and it is in this context that the proposals for setting up of Tripartite Construction Labour Boards, at appropriate levels, must be viewed.

Male and Female Workers

Construction Industry - Census Data (1901-1991)

% of Workers engaged in
construction to Total
workersWorkers employed in Construction
Total Workers

Census Years	Male	Female	Total	Male	Female	Total	Male	Female	Total
1901	74051863 (66.5)	37341550 (33.5)	111393413	619237 (70.4)	247878 (28.6)	867115	0.8	0.7	0.8
1911	79558756 (65.6)	41803467 (34.4)	121362223	874747 (74.8)	294205 (25.2)	1168952	1.1	0.7	1.0
1921	77784361 (66)	40097814 (34)	117882175	703276 (70.8)	289961 (29.2)	993237	0.9	0.7	0.8
1931	83041640 (68.8)	37602891 (31.2)	120644531	961010 (76.7)	291361 (23.3)	1252371	1.2	0.8	1.0
1951	99082627 (71)	40438553 (29)	139521180	1176649 (80.2)	291307 (19.8)	1467956	1.2	0.7	1.1
1961	129015653 (68.5)	59401707 (31.5)	188417362	1812830 (88.2)	242619 (11.8)	2055449	1.4	0.4	1.1
1971	149075136 (82.6)	31298263 (17.4)	180373399	2011831 (90.8)	203477 (9.2)	2215308	1.3	0.7	1.2
1981 (Main Workers)	177543406 (79.8)	44973168 (20.2)	222516574	3331134 (89.5)	389460 (10.5)	3720594	1.9	0.9	1.7
1991 (Main Workers (५५.५२५))	221658584 (77.5)	64273909 (22.5)	285932493	5122468 (92.4)	420737 (17.6)	5543205	2.3	0.6	1.9

Source: (1) Director Labour Bureau's Publications: Socio- Economic Conditions of Women Workers in Building and Construction Industry, Table 2.1 Page 12 (For Census figs. upto 1981) (2) Ministry of Labour, Annual Report 1992-93, Pages 211-12 (For 1991 Census)

Census -1991- Sex-Wise and State Wise Distribution of Construction workers
vis-a- vis Main Workers

State/UT	Main Workers			Construction Workers		
	Male	Female	Total	Male	Female	Total
Andhra	18594100	9851382	28445482	412577	58091	470668
Arunachal	248876	142100	390976	21397	2001	23392
Assam	5640187	1351869	6992056	107607	2000	109607
Bihar	21513704	4105334	25619038	153726	8504	162230
Goa	287154	96405	383559	22124	2913	25037
Gujarat	11354794	2740898	14095692	261260	21562	282822
Haryana	4259846	458880	4718726	118751	4725	123476
Himachal	1284679	494421	1779100	82361	3885	86246
Karnataka	12285340	500677	17292117	389337	38635	427972
Kerala	6404458	1896629	8301087	314523	17817	332340
M.P	17651164	7283357	24934521	350381	38044	388425
Maharashtra	20918541	10087568	31006109	709015	92720	801735
Manipur	414812	293471	708283	9847	1124	10971
Meghalaya	449625	265962	715587	9759	1590	11349
Mizoram	178011	112306	290317	6923	235	7158
Nagaland	299437	212060	511497	8276	756	9032
Orissa	8490943	1886692	10377635	83380	6935	90315
Punjab	5832852	265522	6098374	153317	2728	156045
Rajasthan	11182060	2733011	13915071	320425	16608	337033
Sikkim	109994	54398	164392	9728	1927	11655
Tamil Nadu	15874517	6924549	22799066	440365	48905	489270
Tripura	666287	135776	802063	11179	573	11752
Uttar Pradesh	36510310	4850424	41360734	495686	14834	510520
West Bengal	17989505	2591543	20581048	370791	10526	381317
And+Nico Isds	80665	10142	90807	11664	785	12449
Chandigarh	194502	29126	223628	20428	1670	22098
Dadra & Nagar Havn	39691	21110	60801	1480	256	1736
Daman & Diu	26143	6019	32162	1544	416	1960
Delhi	2660967	307410	2968377	212844	18727	231571
Lakshadweep	10920	1468	12388	1857	59	1916
Pondicherry	204500	57300	261800	9922	1186	11108
All India	221658584	59767809	285932493	5122474	420737	5543205

(excluding J&K)

(Source: Ministry of Labour Annual Rep 1992-93, Table XII, Pages 211-227)

1. Employment in Public and Private Sectors - Construction
Industry 1975-76 to 1988-89 - A Comparative Statement

Emp (000s)						
		Public Sector		Private Sector		Total/constr
Year	Total	Construction	Total	Construction		
1975-76	13321	992	6844	94	20165 / 1086	
1980-81	15484	1089	7395	72	22879 / 1161	
1985-86	17683	1181	7372	69	25055 / 1250	
1986-87	18025	1185	7363	58	25388 / 1243	
1987-88	18321	1214	7391	50	25712 / 1264	
1988-89	18445	1146	7454	69	25899 / 1215	

Source: Monthly Abstract of Statistics CSO, March 1993.

Minimum Wage Rates

Under the Minimum Wages Act, Delhi Union Territory Administration determine the schedule of wages for "Employment in construction or maintenance of roads or in building operation". The wage rates are altered and revised from time to time. The wage rates notified and in force from 1.5.74 to 1.5.89 and from 1.2.91 are given below:

Class of Employees	Minimum of Wages (Rs.)			
	1.5.74	1.4.76	1.5.87	1.5.89
Unskilled				
1. Mazdoor Male	5.15	6.75		
2. Mazdoor Female	5.15	6.75		
3. Helper to Mason, Fitter, Carpenter, Painter	5.15	6.75	18.80	28.85
4. Chowkidar	5.15	6.75		
5. Any other category doing unskilled work	5.15	6.75		
Semi-skilled				
1. Bhisti	6.84	8.45	20.20	31.05
2. Bandhni	8.00	10.00	23.85	36.65
3. Driver with single bullock-cart	17.00	19.00	44.40	68.20
4. Driver Bullock-cart	6.81	8.15	20.20	31.05
Skilled				
1. Glazer	9.20	10.55		
2. Carpenters Grade II	9.75	10.55		
3. Sanitary fitter Grade II	9.75	10.55		
4. Spraymen for Roads	9.45	10.55	25.10	38.45
5. Mason Grade II	9.45	10.55		
6. Blacksmith Grade II	9.45	10.55		
Highly Skilled				
1. Carpenter Grade I	10.25	13.00		
2. Sanitary Fitter Grade I	10.25	13.00		
3. Mistry or Supervisor	10.25	13.00	more than skilled	more than skilled
4. Painter	10.25	13.00		
5. Mason Grade I	10.25	13.00		
6. Blacksmith Grade I	10.25	13.00		

Category	W.E.F	Per Month (Rs)	Per Day (Rs)
Unskilled	1.2.91	854.00	32.85
	1.8.91	891.00	34.30
	1.2.92	958.00	36.85
	1.8.92	1009.00	39.80
	1.2.93	1078.00	41.45
Semi Skilled	1.2.91	952.00	36.60
	1.8.91	989.00	38.05
	1.2.92	1056.00	40.60
	1.8.92	1107.00	42.58
	1.2.93	1176.00	45.25
Skilled	1.2.91	1104.00	42.45
	1.8.91	1141.00	43.90
	1.2.92	1208.00	46.45
	1.8.92	1259.00	48.42
	1.2.93	1328.00	51.05
Clerical & Non Technical ^{supy} Staff			
Non Matric	1.2.91	968.00	37.25
	1.8.91	1005.00	38.70
	1.2.92	1072.00	41.25
	1.8.92	1123.00	43.20
	1.2.93	1192.00	45.85
Matric but not Graduates	1.2.91	1118.00	43.00
	1.8.91	1155.00	44.45
	1.2.92	1222.00	47.00
	1.8.92	1273.00	49.00
	1.2.93	1342.00	51.60
Graduates & above	1.2.91	1302.00	50.10
	1.8.91	1339.00	51.55
	1.2.92	1406.00	54.10
	1.8.92	1457.00	56.04
	1.2.93	1526.00	58.60

The minimum rates of wages in case of daily rated workers are inclusive of wages for weekly off days. These minimum rates of wages are applicable for the workers working 6 days in a week. In respect of employees engaged by or through C.G.Depts. the O.M. No. dated issued by the Government of India, Ministry of Labour may be followed.

Extracts from Notification No.S.O.944(E) dated 14.10.88 issued by the Ministry of Labour, Government of India (vide F.No.S-32019/3/87-WC (M.W))

All inclusive, minimum rates of wages per day (Rs.)	Rate of spl. All for every 4 pts. rise or fall in CPI beyond 753 for Ind. workers
--------------------------------------------------------------	--------------------------------------------------------------------------------------------

Applicable to
Delhi - Area (A)

Unskilled	17.80	9 Paise
Semi-skilled	31.60	11 Paise
Skilled	31.60	14 Paise
Clerical	31.60	14 Paise
Highly skilled	34.70	18 Paise

Note 1. The minimum rates of wages fixed by this notification are applicable to employees engaged by contractors also.

2. The minimum rates of wages shall consist of all inclusive rates and also the wages for weekly day or rest.

3. The minimum rates of wages payable to young persons below 18 years of age and for disabled persons shall be 80% and 100% respectively of the rates fixed by this notification for adult workers of the appropriate category.

4. Workers employed on tunnel working shall be paid 20% extra of the minimum wages fixed under this notification for the appropriate category.

5. Workers employed on high rise buildings over 30 ft. in height or four floors in the construction industry shall be paid 20% extra wages of the minimum wages fixed under this notification for the appropriate category.