



BUILDING COLLECTIVES TO SECURE RIGHTS & ACCESS ENTITLEMENTS

**A review of engagement with construction
workers across six States in India**



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Partners and Allied Organisations

Antakshari Foundation (AF)
Centre for Child and Women
Development (CCWD)
Institute for Social Research and
Development (ISRD)
Mahila Action (MA)
Nidan
Paryay
Society for Social Transformation and
Environment Protection (sSTEP)
Vigyan Foundation (VF)

ActionAid Regions and Hubs

Citizen Rights Collective (CiRiC)
Andhra Pradesh & Telangana
Regional Office
Bihar & Jharkhand Regional Office
Madhya Pradesh Regional Office
Maharashtra Regional Office
North East India Regional Office
Odisha Regional Office
Rajasthan & Gujarat Regional Office
Uttar Pradesh & Uttarakhand
Regional Office

The intervention with domestic workers was done as part of the European Commission supported project: "Securing rights and sustainable livelihoods through collective action and education for people dependent on the informal economy in India."



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Foreword

The passing of two historic legislations for construction workers in India was thought to be of a brilliant stroke for the fate of informal workers. These two legislations- The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996 and the Building and Other Construction Workers Cess Act, 1996 were declared to transform the lives of construction workers. While the former directed towards setting up of Building and Other Construction Workers' Welfare Board in every state while the later ensured financial plan for these boards by mandating the levy of a cess of one per cent of the estimated cost of construction projects above Rs 20 lakh (hundred thousand).

This euphoria was unfortunately short-lived. The process of setting up the Welfare Board, designing of welfare schemes, collection of cess, among other mandates took years to be completed. In December 2016, as per the information provided to the Parliament, the boards had collected Rs 28,454 crores, out of which only Rs 6,097 crores (21 per cent) had been spent. Through this, it is not hard to calculate the outreach and the facilities that these boards have been able to provide to the millions of the construction workers.

ActionAid Association with the support of European Commission initiated an intervention with the objective to secure sustainable livelihoods and protect the socio-economic rights of vulnerable people dependent on informal economy (PIE) in 2015. Working with partners organisations, this intervention is spread across across 35 cities, 18 districts and 15 states in India, reaching out to more than one lakh (hundred thousand) marginalised people dependent on informal economy (PIEs) from 10 different sectors including street vendors, construction workers, domestic workers and home based workers.

The engagement with construction workers was across six states in the

following cities, where we worked with partner and allied organisations: In Indore we worked with Institute for Social Research and Development (ISR), in Bhubaneswar with Centre for Child and Women Development (CCWD), in Guwahati with Society for Social Transformation and Environment Protection (sSTEP), in Vishakhapatnam with Mahila Action (MA), in Jaipur with Antakshari Foundation (AF), in Lucknow with Vigyan Foundation (VF), in Patna with Nidan and in Aurangabad with Paryay. Our regional offices leading ActionAid's engagements in Andhra Pradesh & Telangana, Bihar & Jharkhand, Madhya Pradesh, Maharashtra, North East India, Odisha, Rajasthan & Gujarat and Uttar Pradesh & Uttarakhand; the Citizen Rights Collective (CiRiC), the urban knowledge activist hub hosted by ActionAid, worked closely with partners and allies across all the states and nationally.

After 4 years of project implementation, a review of our work with this sector was done through a holistic process. In September 2018 a national review and reflection workshop was held in Bhubaneswar with the participation of all partners and allies with the concerned regional offices and the team from CiRiC. The national workshop was also attended by activists and experts, associated with Working Peoples' Charter (WPC). They facilitated an intense discussion on the political economy of work vis-à-vis informal work, with reference to the rights of the construction workers. The workshop also saw brainstorming for future strategy. The 2-day workshop provided an opportunity for interaction amongst the different partners working in different local contexts and understanding the commonality of challenges, strategies, and advocacy efforts. As part of the review exercise, a two-member team also visited Guwahati to interact with sStep to understand the work done in the past 4 years.

This publication emerges from the review and reflection process. We offer this review of the experiences of collectivisation, struggles and efforts, towards the right to be recognised as workers, to activists and organisations engaging with worker's struggles and the labour movement with the view of enrich ongoing conversations. We look forward to any comments and suggestions.

In solidarity,

Sandeep Chachra,
ActionAid Association

Chapter 1

Introduction

The sector of construction industry is the second largest worldwide after agriculture. Globally, construction accounts for roughly 11-13% of global Gross Domestic Product (GDP); that figure is forecast to grow to as much as 15% by 2020 (Schilling 2015). This is the largest sector to provide employment in the urban areas. The total output of this industry is around \$3,000 billion per annum worldwide while the industry generates employment for over 110 million people at the global level. In India the construction industry contributed 8 percent of the total GDP and it employs 11 percent of the workers, between 2011-2012. Therefore, Indian has emerged as the 9th largest construction market in the globe with 3.3 percent of share in the global construction market. It is expected to grow further and become the third largest construction market by 2020 (Global Construction 2020, 2013).

The employment nature and character of this industry is different for the developed and developing countries. The activities of this industry in the developing countries are more manual labour intensive and absorbs a large number of labour from rural areas. It is also attractive to the landless rural labourers.

1.1 Construction Workers and Migration

The sector of construction workers is one of the biggest sectors that constitutes the informal sector. Therefore, it is important to understand the changing nature of this informal sector. The informal sector is not only changing but it is also increasing. In its growing form, the State has a big role in it. For this, we must understand the way in which the State defines the informal sector. The informal sector has been termed as the "unorganised sector" by the State and as per the National Commission for Enterprises in the Unorganised Sector (NCEUS). It is defined as "The unorganized sector consists of all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis and

with less than 10 total workers." Firstly, this definition doesn't take into account the unaccounted nature of employer-workers that exists in the informal sector. This attempt of defining the informal sector has limited not only in designing the workers' rights but also majorly drafting the rules of them accessing the social security schemes. By terming the informal sector as unorganised sector the State has taken away its possibilities of considering it as a sector that is self-organized and has political elements concerning with labour rights.

The other dominant characteristics of this informal sector and mainly in construction sector, is that majority of the construction workers are migrant labourers. According to Census 2001, there were about 14.6 million construction workers (not including brick kiln workers), of which 30.4% of male construction workers (3.9 million) and 60.4% of female construction workers (1 million) were migrants (Centre for Policy Research, June 2017).

These migrant workers makes the attempt to break out of the poverty cycle but are rather imbibed deeper into the unprotected and exploitative labour economy. This includes no observation of labour laws, lack of safe working conditions, absence of basic amenities, social exclusion (Sampark, 2008; Kameshwar, 2004) and lack of political recognition. Unfortunately the increasing rate of migration in India is not coupled with an improvement in the working and living condition of the workers. Irrespective of the growing construction sector, conditions of the workers are worsening constantly.

These migrant workers arrive in the construction sites through a local contractor who is hired by the principal employer. As the rightful legal procedure, the principal employer must be registered with the State Labour Department and this registration bounds the principal employer with the Contract Labour (Regulation and Abolition) Act, 1970 and Contract Labour (Regulation and Abolition) Rules, 1970. Therefore, it is only the principal employer who is legally bound to follow the norms and legalities under the Acts. These principal employers further sub-contracts for hiring of workers. The sub-contractors do not have any legal obligations towards the workers.

However, the contractors/middlemen are often considered as the main employer by the construction workers. In a study conducted in Delhi, it

was found that approximately 85 percent of the construction workers sees their contractor as the principal employer.

In most of the cases the contractor is the local person who belongs to the same area as the worker. These sub-contractors are seen as a source for guaranteed job. They sometimes also give advance payment to the workers and only settles it when the final payment of the job - contract happens (3). Usually the inter-state migrant workers have no safe space to keep their wages and therefore leaves the wages with the sub-contractor with the expectation that they will be paid fully towards the end of the job (Sampark 2016). This kind of financial agreement makes the workers vulnerable to non-payment of wage and face huge economic challenges. This unclarity of information on who is the principle employer results in the struggle of the worker in grievance redressal and they are often caught up with no one taking direct responsibility of their needs and rights. In order to address these challenging circumstances for construction workers, the Government of India and the State government have framed Acts and Rules that regulates the working conditions, benefits and the workers in the construction industry. The social welfare measures have also been included in these legislations. To what extent they have been able to achieve their objective is debatable and discussed later in the document. There are two major legislation that have been brought into: Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 ("the Act"); and the Building and Other Construction Workers Welfare Cess Act, 1996 ("the Cess Act"). As the mandate of these legislations, every State and Union Territory (UT) has to set up a Construction Workers Welfare Board (CWWB) comprising of up to fifteen members with equal representation from workers, employers, government and a Chairperson nominated by the state government. The Board is mandated to register all construction workers in the state and facilitate the accessibility of the registered workers to the welfare through various schemes, measures or facilities. The suggested list of the welfare schemes is mentioned in the section 22 of the Act. Some of the broader ones are medical assistance, maternity benefits, accident cover, pension, educational assistance for children of workers, assistance to family members in case of death, group insurance, loans, funeral assistance, and marriage assistance for children of workers. Detailed schemes for implementation of these benefits are devised at the State level. Minimum safety standards and conditions of employment for construction workers

have also been prescribed under the Act. However, the major challenge in the implementation of this Act has been the registration process of the workers. Each State has set out rules regarding the documents required for the registration and these rules have limited the process.

The other legislations that are relevant to this sector and its migrants' workers are:

1.1.1 The Contract Labour (Regulation and Abolition) Act, 1972

- The Contract Labour (Regulation and Abolition) Act, 1972 aims to
- prohibit the employment of contract labour; and
- regulate the working conditions of the contract labour whenever such employment is not prohibited.

However, this act was not enough to address the challenges of the middlemen, agents and contractors. After nine years of this Act, a second step was taken through The Inter-State Migrant Workmen (Regulation and Conditions of Services) Act, 1979.

1.1.2 Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 applies to every establishment and every contractor who has employed five or more "inter-state migrant workers" for at least one day in the past month. This Act came with the right based approach and with the intention to provide full facilities and social security to the migrant workforce in India. The main highlights of the Act are:

- registration of principal employers/ contractors and licensing of all contractors;
- issue of passbook to every inter-state migrant workman with full details;
- payment of equal wages as that of local labourers for performing similar kind of work and should not be less than the minimum wages fixed under the Minimum Wages Act;
- payment of displacement allowance equivalent to 50 per cent of monthly wages or Rs.75/- whichever is higher;
- payment of journey allowance including payment of wages during the period of journey; provision of suitable residential accommoda-

tion, medical facilities and protective clothing, payment of wages, equal pay for equal work irrespective of gender; and submission of report to the specified authorities of both the states and also relatives of the migrant workmen in case of a fatal accident or serious bodily injuries to the workmen.

However, there are few loopholes that have resulted in the Act being only on papers. The Act sets penalties including imprisonment for non-compliance but at the same time the act provides an escape route to principal employers if they can show that transgressions were committed without their knowledge. There are almost no cases of prosecution or dispute settlements. This has led to no improvement in the working and living conditions of the migrant workers in the construction sector.

1.1.3 Bonded Labour System (Abolition) Act, 1976

Bonded Labour System (Abolition) Act, 1976 contains a clause in which the bonded labour is eligible for a payable consolidated assistance only after the conviction of the employer. The effective implementation of this act depends largely on the intention and the capacity of the government in identifying the bonded labours. So far, there has not been much effort in doing so. As a mandated clause in the Act, each district is required to set up a vigilance committee, but it has often been found that this committee has not been formed.¹

1.1.4 Minimum Wages Act, 1948

Minimum Wages Act, 1948 lays down detailed procedures for setting and listing minimum wages in various industries under the domain of a specific time period. The minimum wage is fixed by the Central and State government based on different types of employment such as skilled and unskilled labour, agricultural and non- agricultural. However, the implementation of this Act has been not as effective as the drafting of the Act. There are many court cases that has been filed because of non-payment of wages as per the Act. Most of these court cases have received favourable judgement for the workers.² However, the biggest challenge is the non-affordability of the worker to reach out the judiciary system for such cases without the support of an organisation.

1 <http://www.indialegalive.com/cover-story-articles/focus/bonded-labour-loopholes-in-the-law-36721>

2 https://www.sadf.eu/wp-content/uploads/2017/12/33-FOCUS.N.33.India_minimum-wage.Sinha_Rai_Kotian.pdf

1.1.5 The Workers' Compensation Act, 1923

The Workers' Compensation Act, 1923 makes the employer pay compensation to any worker for a personal injury caused to him/her by accident arising out of and in the course of the employment. This act makes the "employer" liable for the payment. However, in case of the construction workers, majority of them operate through the system of middleman which makes it challenging in establishing a clear line of employer – worker. The act also requires the worker to prove that the injury has taken place in the course of employment which again is challenging because of no system of record keeping and immediate response.

Unorganised Sector Workers' Social Security Act 2008

Unorganised Sector Workers' Social Security Act 2008 intended to extend social security schemes for all the workers registered within the unorganised sector. However, in many cases, the States has only put the welfare schemes within the ambit of social security. There has been no addition to the old programmes to this Social Security Act. One of the reasons for the failure of this Act has been because of the free hand that has been given to the State to design their own schemes related to provident fund, employment injury benefit, housing, education, skill upgradation, funeral assistance and old age homes. However, none of these has been made mandatory for the Government. This has led to the exclusion of approximately 39.35 crore in the unorganised sector of economy (NS-SO 61st Round).

On one hand, the majority of the construction workers are migrant labourers and on other hand there are multiple legislations but with no inter-connectedness in their implementation. This has led to the cross-cutting of the causes of these legislation that adversely affect the rights and entitlement of the migrant workers in the construction sector.

1.2 Construction Workers and Labour Rights

Labour laws has been a huge concern of economic globalisation and domestic labour standards. A part of the United Nations, the International Labour Organisation has set minimum standards that should be a right for every worker all over the world. Since 1919, the International Labour Organization has maintained and developed a system of international labour standards aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of free-

dom, equity, security and dignity. In today's globalised economy, international labour standards is an essential component in the international framework for ensuring that the growth of the global economy provides benefits to all.

The ILO Declaration on Fundamental Principles and Rights at Work cites eight core conventions that define human rights at work:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Equal Remuneration Convention, 1951 (No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- Minimum Age Convention, 1973 (No. 138)
- Prohibition and Immediate Elimination of the
- Worst Forms of Child Labour Convention, 1999 (No. 182)

As a member of the ILO, India has committed to “foster respect for international law and treaty obligations”. However, when it comes to the protection of construction workers within the labour laws, there are innumerable violations of multiple laws such as Minimum Wages Act, 1948; Equal Remuneration Act, 1946; the Inter-state Migrant Workmen (Regulation of Employment and Condition of Services) Act, 1979; Bonded Labour System (Abolition) Act, 1976; Contract Labour (Prohibition and Regulation) Act, 1970; and The Buildings and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. A major reason for this violation is unawareness of majority of the workers of these laws and the provisions for their protection. There is also little chance of them knowing about these because of non-affiliation to any trade unions.

The labour laws in India have historically been focused on the organised workers and therefore leaving out the unorganised sector. Even the organised sector after being promised many protections had to wait in a

long queue for welfare provision such as education, health care, housing, public distribution system back then. Therefore, the distinction between the organised and unorganised sectors based on labour laws doesn't stand true in terms of the social welfare provisions. There are still few labour laws that are directly applicable to the unorganised sector. The recent trend in labour laws focuses on regulation for employment, wage remuneration, working conditions of the workers, social security, trade unions, and labour management. However, the extent to which these laws are applicable and implemented for the construction workers is questionable.

The core issue of construction workers is in establishing their labour rights in the absence of a clear hiring authority. In Delhi, 84 percent are hired through a long and complicated chain of contractors while 99 percent are migrant workers from Bihar, West Bengal and Uttar Pradesh. The contractors are the one who are often responsible to keep a record of the attendance and payment of these workers. With the low rate of literacy among the workers, the workers are often dependent on the contractors to claim their payment. Most of the cases that are received by the NGOs which are working with construction workers are cases of non-payment.

This financial challenge of non-payment of wages only reflect the tip of the massive underneath violation of labour rights that the construction workers faces. The workers do not have the right to fix their wages, but it is determined by the negotiation between the employer and the contractors. The workers are also not paid in total until the work ends which inevitably locked in their jobs without any formal contract. Therefore, this creates an economical dependency of the worker on the contractor which in exchange negatively impacts the bargaining power of the worker whether economically or for their rights. For example, in a study conducted in Delhi, it was found that "79% of all workers get employed through contractors. This probability is as high as 98% in commercial complexes and 82% in residential complexes but is lower at 64% in individual construction sites."

The lack of economic power also shapes their living conditions that is not only precarious but also with lacks the ability to accommodate the need of a family as a unit. Most of the construction workers live

inside the construction sites or labour camps. Both these locations are barely equipped with basic facilities like electricity, safe drinking water, hygienic toilets. The accommodation is also highly congested. This precarious living condition along with the occupational health hazards leads to health problems for the workers. But, amid the need of health care needs, most of the workers have no access to social security due to the challenge of accumulating the required documents for registering themselves in the construction workers' welfare boards.

1.3 Construction Workers and Skill Training

The current data from National Skill Development Corporation (NSDC) says that only 2.3 percent of the workforce in India has formal skill training as compared to 68 percent in UK, 52 percent in USA, 96 percent in South Korea and 75 percent in Germany. By 2025, India is believed to become the most populous country with a population of around 1.4 billion (Dhar, 2013). From January – March 2016, the Indian economy grew at the rate of 7.6 percent. As per the NSDC data, the demand of skilled workers will increase dominantly in sector of textile, construction, automobile and transport by 2022. Each of these sectors contributes a large percentage of informal labour. This has also contributed to the increasing movement of labour from rural to urban, especially in the service sector which has the potential for maximum job creation.

On one side this contradiction can be seen as an opportunity but on the other hand the real potential can be gauged by comparing the quality of skill as India has the potential to gain if it is able to skill its unskilled working population. In this context, the UPA government has introduced a policy framework named as the National Skill Policy (2009) that lays down the policies and procedures for skill enhancement and the National Skills Qualification Framework (NSQF) that was enacted on 27th December 2013. This policy is built on the basis of public-private partnership model and is within the ambit of the Ministry of Skill Development and Entrepreneurship. In July 2015, a new scheme was launched Pradhan Mantri Kaushal Vikas Yojana (PMKVY) for which Rs 1,500 crore was allocated to train 2.4 million people, including 1.4 million fresh trainees and skilling of the remaining under the Recognition of Prior Learning (RPL) programme.³

3 <https://www.business-standard.com/article/economy-policy/why-india-s-skill-mission-has->

However, this scheme was highly criticised because its failure to adopt a holistic approach by combining vocational training and skill development. As per the Sharada Prasad Committee, only 8.5 percent of the trained persons received placement. The policy of skilling the working population can't be seen in isolation from wage rights and workers' rights. India's investment in skilling the working population will be successful only if it is combined with abolition of economic and structural exploitation of its workers. This, if done right and within the context of fair wage will also support in increasing income capacity of the informal workers.

1.4 Women in Construction Workers

The level of skills in the construction industry varies from highly skilled to extremely unskilled and so does the payment range within this spectrum. The lowest level in the hierarchy of skilled labours is women who are mostly engaged as casual labours. Women workers account for 51 percent of the total construction sector.⁴

As per reports of ILO, the South Asian countries have high number of women in the construction industry and are at the lowest hierarchy of unskilled labours or head-load carriers. The number of women workers receiving training for skill enhancement and building is also far too less. This factor along with the gender discrimination regarding physical capacity, results in low payment (around 10 – 20 percent) of women construction workers as compared to the men construction workers. Most of the women are also part of a family unit who are considered as an additional income rather than a full worker. In this situation, they might not even be able to access the payment.

There are hardly any onsite facilities like creche for their children, women friendly toilet. Besides this, there are also no maternity benefits for the women workers. While the men are promoted to a higher job or pay scale, the women workers are forced to remain in the same level. With the increasing pace of this capital intense industry, the nature of employment is becoming more 'masculinized', i.e., little or no facilities are provided for the women construction workers. The associated working conditions in the construction sites are less equipped with safety measures that increase

failed-117090200098_1.html

4 <http://www.wiego.org/informal-economy/women-india%E2%80%99s-construction-industry>

the risk rate of being injured. This has resulted in many women losing their jobs. The time spent, and the income earned by women in the construction sector vary greatly by the nature of work, their involvement, and wage differentials on the basis of gender (ILO, 2002; Jagori, 2004). For instance, the wage difference between men and women is about Rs 40-70. While women get paid Rs. 60-70, men get Rs. 100-175 per day (ILO, 2002).

1.5 Policy analysis of the Construction Workers' Act, 1996.⁵

It has been argued that the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (BOCW Act) for migrant workers is much like 'A square peg in a round hole'. The Act is designed for sedentary workers who are full time. The reality is very different where high-frequency migration is the hallmark of the workforce in the sector.

1.5.1 Characteristics of Construction Workers.

While the workers are migratory, seasonal, multi-vocational, the registration system is designed for full-time sedentary workers. The population of construction workers has increased beyond 5.5 crores. These workers are mostly from rural areas, of the eastern and north-eastern states and migrate to western and southern states. Most states do not have mechanisms to register this profile of workers.

1.5.2 Discrepancy in Cess Collection and Expenditure Pattern.

The age group starting around 15-18 years and retiring by 40-45 years of age is the working period generally. They mostly go back by this age to their source states. However, cess collected is much higher in destination areas, but the workers would want pension in the source areas.

Without addressing these core discrepancies in the design of the Act, we can only go so far with the suggestions we have received today.

1.5.3 On Portability

The 3 dimensions of portability can be:

⁵ The review of the BOC Act and Boards' functioning is based on discussions carried out in the National Review and Reflection Workshop on Construction Sector held in Bhubaneswar in September 2018 and other discussions held by the contributor with construction sector experts.

- Registrations anywhere
- Contributions anywhere
- Benefits anywhere

The successful adoption of these norms would require uniformity of norms and rules across the states. Without such uniformity, portability will be hindered.

In addition, 3 essential steps are required for portability to work:

- Maintenance of a national registry of workers
- Uniformity in criteria for registration across states
- Harmonisation of quantum of benefits across states with clarity on the board (source or destination) paying the long-term benefits

1.5.4 On the Functioning Workers' Welfare Boards

Slow Pace of Registration: Representatives of workers, government, Supreme Court and the ILO, all have expressed concerns on the slow pace of registration of workers under the BOC. Many workers' representatives have claimed that inefficient delivery of services under the welfare schemes of the state boards not only affects the registered workers but also discourages new registrations. Both the organised and unorganised sector employments see equally low level of registrations owing to various reasons.

Effective Utilisation of Collected Funds: A large number of state boards are struggling to effectively utilise the cess funds collected under the Act. Timely and full collection of cess funds is also a major issue. Furthermore, while the cess collection is concentrated in pre-dominantly the destination states, the long-term benefits for the migrant workers are to be ultimately provided by their source states. This adversely impacts the utilisation of the funds. Employers' representatives opine that the burden of cess, especially when it remains unutilised, brings reluctance among employers in depositing the cess.

Lack of Portability Leading to Exclusion of Migrants: It is widely agreed that migrant workers are rarely covered by the state boards owing to the non-portable design issues in the BOC Act, lack of available documents with the workers and at times, an apparent unwillingness of destination

states to provide benefits to workers from other states. While the workers are migratory, seasonal and multi-vocational, the registration system is designed for full-time sedentary workers.

Labour Department Lacks Capacity for Implementation: The experience of the workers and state boards' representatives show that the labour department lacks the infrastructure, human resources and funds to be able to fulfil the mandate of registering all construction workers in different states under the BOC. Furthermore, it is also argued that contractual employment of the staff engaged in registration mars accountability in the process.

Need for Independent Functioning of the State Boards: The near complete dependence of the state boards on the labour department for the registration process means that the boards are unable to ensure accountability and efficiency in the process. The state boards do not have the personnel or capacity to undertake monitoring activities. Another aspect of the BOC Act impeding registration is that there is an expenditure limit of 5 percent set for starting the facilitation centres. Experience shows that the needed quantum of funds is much larger.

Political Misuse of the BOC: Local government bodies in charge of registration have been found using the process of registration as their political tool. There is a widespread tendency of political bodies appeasing their own specific constituencies, instead of catering to all the eligible workers.

Corruption and Exclusion of Recognised Trade Unions: Many workers' representatives concur that there are rackets of employers, contractors, sub-contractors, fraudulent trade unions and politicians that are involved in the registration process for seeking rent. Workers representatives felt that the problem of corruption gets compounded as the state boards fail to communicate regularly with the trade unions. It makes it very difficult for the unions to participate effectively in the registration process.

Uneven Rules and Implementation across States: There is a large-scale unevenness in the rules made by different states under the BOC Act, of-

ten impeding the process of registration itself. Additionally, amidst the labour department, the local bodies, trade unions and others; the multiplicity of registering authorities causes much confusion in the registration process.

Sub-par Data Management: The present maintenance of records of registration is very poor and the data is completely unreliable. This fact undermines the any attempt to substantially review the status of registration.

Absent Mandatory Registration of Workers by Employers:Employers and contractors, including those from the public sector and with government contracts, fail in the majority of cases to register their workers.

Lack of State Level and Inter-state Harmonisation of Welfare Schemes: Within the states, inter-departmental conflicts due to overlap in the mandates of welfare schemes mar service delivery. To make things worse for the migrant workers, there is also no active central level coordination among the state boards.

Little Social Dialogue and Cooperation between Trade Unions and Employers: The employers do not allow unions to enter and register workers on their construction sites. On the other hand, some employers feel that there was a lack of political will among the major trade unions to intervene in the interest of the workers. Employers spoke about corruption in the local level leadership of the unions and how it was pushing the employers closer to the *dalals*.

Influx of Non-construction Sector Workers:The bogus registrations in the BOC are often of workers from other unorganized sectors of employment where BOC-like welfare board and schemes are not active. At the same time, the adoption of self-certification instead of the 90-days' work certificate from the trade unions has led to extreme inflations in registration numbers.

Insufficient Popularisation of the BOC benefits: Workers are largely unaware of the benefits under the BOC and therefore not keen on registering themselves. Popularisation of the schemes is insufficient leading to lower registration.

1.6 Linkage Between Labour Codes and the Construction Sector⁶

1.6.1 Labour Code on Wages

The Draft Labour Code on Wages was published by the Ministry of Labour and Employment (MoLE), Government of India (GoI), in 2015. The Government introduced a revised version of the Draft Code in the Lok Sabha on August 10, 2017, as the Code on Wages, 2017, Bill No. 163 of 2017. While the Bill addressed a few concerns raised by the workers, many issues still remain that might jeopardise the livelihood of millions of workers through diluted protective standards and diminished accountability mechanisms in the provisions of the Bill.

Growth in real wages for regular construction workers saw a rate of 0.5 percent between 1993-94 to 2004-05. The same rose at the rate of 5.2 percent between 2004-05 to 2011-12. For casual workers, these rates were 0.9 percent and 4.3 percent respectively (ILO 2018:28). These are among the highest growth rates for wages in the secondary sector, even compared to manufacturing.

As per the proposals of the Wage Code, the schedules of employment as under the Minimum Wages Act, 1948 will be eliminated under the Code. State governments will be responsible for setting standardised state-level minimum wage rates for 2 general forms of employment- time and piece-rate work. This is likely to lead to a flattening of the wage rates across sectors, most likely to the detriment of sectors like construction which have seen positive trends in wage growth. Given the intensifying competition between states to attract capital investment, it is highly likely that the states will compete to set the lowest possible minimum wage rates.

The Minimum Wages Act, 1948 requires the government to periodically revise the rates at least once in 5 years. The Code on Wages however allows the government to “review or revise” the rates every five years. This flexibility in law can obviously be used to deny any increments in the rates even after 5 years, based on the so-called “review”. State governments have been allowed practically unlimited flexibility and discretionary powers in setting the criteria for calculation of minimum wage rates.

⁶ Based on the review of the Draft Labour Codes conducted by the contributor.

The suggested criteria in the Bill completely bypass and potentially violate established jurisprudence on required needs-based criteria for setting of minimum wage rates. In fact, such provisions take away from the Supreme Court's interpretation of the constitutional mandate of progressively realising living wages for all workers of the country. The essential pillar of social justice in this matter is the mandatory accounting for the cost of living of workers in the calculation of their minimum wages. This has been completely undermined in the Code. Further, the mandatory periodic revision of the rates in 5 years has also been made optional, allowing not only minimal wage rates but also little to no increments to keep up the rates with increases in the cost of living.

The provisions of the Code replace an already debilitated system of labour inspections and enforcement of labour laws, with a much softer regime of inspection and voluntary compliance. Given the government's ready reliance on self-certification by employers and the provision of likely pre-determined schedules for inspection, the capacity of the facilitators to actually identify and act upon cases of labour rights violations appears highly suspect.

The provisions of the Code allowing different national minimum wage levels in different areas are self-defeating and essentially promote lowering of wages in the states' race to the bottom for attracting investments.

1.6.2 Labour Code on Social Security and Welfare

The Code aims to progressively realise universal social security coverage for all workers in India including the construction sector workers. There is also considerable emphasis on the coverage of internal and international migrant workers with introduction of portability of services.

The key import of this Code for the construction sector is the reorganisation of the BOC boards under a new institutional framework. The Code proposes the installation of a National Social Security Council and a Central Social Security Board to manage and monitor the design and implementation of all social security schemes through State Social Security Boards. In every state, the building and other construction workers' welfare fund will be vested in their respective State Social Security Board.

This new structure appears to have greater potential for meeting the demand of better central coordination of the state BOC boards. The Code also contains a clear system of standardising the welfare schemes to be provided by the boards. This has also been a long-standing demand of the workers, given their frequent migration across states. Further, the code aims to register all the workers in the sector under a new Aadhar-based system referred to as the Vishwakarma Karmik Suraksha Khata or VIKAS account. Although this is beyond the specific purview of the Social Security Code, but a formal registration of all the workers is likely increase the chances of their coverage under the various other labour laws like the Minimum Wage Act. As of now only 30.5 percent of the construction workers are covered under the minimum wage legislation (ILO 2018:83). The Code also provides for workers registered under VIKAS to file regular income-cum-employment challans. If successfully implemented, this system can enable the government to better track migrant construction workers and ensure their inclusion in services delivered.

However, many questions regarding the transition from the current BOC framework to the new framework remain unanswered. It is unclear if those workers who are currently registered under the BOC will automatically receive VIKAS registration or they will have to go through the registration process afresh. Given the state-level implementation of the BOC schemes, many states have devised contextually specific schemes that go beyond the 11 types of schemes mentioned in the Code. Given that the Code gives limited autonomy to the states to develop their own social security systems, the fate of many good schemes run by state governments remains unclear.

A most significant move under the Code is the transformation of the social security funding under the BOC to a contributory model for all workers who earn above the minimum wage. This is in stark contrast where the social security accrues to the construction workers as their social wages drawn from a cess on the construction sector employers and received without any deductions in the in-hand wages. Under the new Code, the workers may have to pay 12.5 to 20 percent of their monthly incomes in order to become eligible for social security.

In closing, a most contentious issue of the utilisation of the funds collected under the BOC cess under the new Code is that the state social

security boards will receive funds for the construction workers, proportionate to the claims reflected in the number of VIKAS registrations. Furthermore, the funds will be utilised only upon successful submission of claims by eligible 'scheme members'. Meanwhile, the entire corpus of unutilised funds has to be transferred to the Central Board for profitable investments in the markets by intermediary agencies – who are most likely to be big private corporate companies. This plan goes head-on against the demands of the trade unions who have been resisting the diversion of the cess funds by state governments to any activities other than those mandate by the BOC Act.

Chapter 2

Construction Workers in India

In the last two decades, ActionAid Association has adopted the approach of Right to Work in its intervention regarding the informal sectors and labour rights. ActionAid Association's efforts in building and sustaining organic leadership of the most marginalised and dispossessed and challenging inequalities have helped agenda-driven coalitions deliver several credible victories.

In the Country Strategy Paper 2011 – 2015, it has been mentioned that ActionAid Association will focus its work on livelihood protection of workers along with their accessibility to social protection – “Support collective actions on the protection and the use of commons for survival and livelihood of local communities. We will work to create public opinion against commoditisation and privatization of commons and public services and join forces with workers' organisations to advocate for the universalisation of transformational social protection as a right.”¹

This project builds on the above thematic priorities and advances the larger vision and mission of ActionAid Association to advance the rights of the informal workers. Through its different interventions and programmes ActionAid Association intends to address the widespread lack of basic services, living wages, social security, and increased vulnerability to exploitation, violence, and bondage has pushed people from the most vulnerable communities in rural areas – Adivasis, disaster and conflict affected people, minorities, and Dalits– to become economic migrants at immense social and personal cost and exposed them to further precariousness and exploitation in peri-urban and urban areas.

2.1 THE CONSTRUCTION WORKERS' SECTOR IN INDIA

93 percent of the 428 million strong Indian workforce depends on the informal economy according to the National Commission for Enterprises

¹ Pg. 12: Country Strategy Paper 2011- 2015 People First , ActionAid India Country Strategy Paper 2011- 2016 <https://www.actionaidindia.org/publications/people-first-2/>

in the Unorganised Sector report. (NCEUS Arjun Sengupta Commission, 2007). 60 percent of them are in agriculture and allied sectors, the remaining 40 percent includes amongst others domestic labourers, street vendors, construction workers (including daily wage labourers), garment workers, and the self-employed.

The economy is growing, but this has been characterised as jobless growth, with the number of people dependent on informal economy increasing (NCEUS Arjun Sengupta Commission, 2007). The urban employment share for the informal sector increased from 25 percent to 37 percent between 1989 and 2005 (Ghani and Kanbur, 2012). The Planning Commission - NitiAyog, acknowledges that urban India contributes to 62 percent of the country's GDP. It has estimated that there will be 600 million people living in cities in India by 2030 – an increase of over 220 million people in 20 years. Increasing urbanisation and more people residing in urban areas; not only by natural increase but also displacement/forced migration from rural and second tier towns and cities.

One has to locate the engagement with construction workers within such contexts to understand how the project is multi-layered, and is addressing the informal work and rights of workers through various avenues/directions/aspects – social security, collectivisation, recognition and dignity, skill building vis-à-vis better bargaining power, decent work, minimum wages etc.

This action is situated in the dual context of increasing informalisation of work and urbanisation of the economy. They are only seen as invisible service providers and are questioned on their legitimacy when it comes to them claiming their rights and entitlements.

In this context, the urban team – Citizens' Rights Collective (CiRiC) of ActionAid Association, funded by European Commission, aimed to address the challenges faced by the people depending on the informal economy (PIE). The overall agenda of the project is to secure sustainable livelihoods and protect the social and economic rights of vulnerable people dependent on informal economy in 32 cities and 18 districts in 15 states of India. This aim is realised through three objectives:

- To increase awareness of socio-economic rights and entitlements to

decent work and mobilise people dependent on the informal economy to claim those rights;

- To enable young men and women to gain life skills and vocational skills, improve their access to decent work opportunities and increase incomes.
- To develop an understanding of the context, the history and practice of policies related to people working in the informal sector both within India and internationally in order to better frame, analyse, monitor and implement them.

Chapter 3

Engaging With Construction Workers

The project was started with detailed interaction and strategic meeting with informal workers' groups.¹ The project is designed in a decentralised system that gives the organisation the scope to understand the contextual setting of the cities for intervention. It followed a bottom-up approach right from the inception of the project till its execution and implementation. Cities of India, located in differential socio-economic and political contexts, have exhibited their own unique strategies and actions to address the project objectives.

The first step of the project has been the collectivisation process through series of meetings, workshops and awareness campaigns that allowed the project team to know about the status of their rights and entitlements.² The project has moved forward in addressing the findings of the midterm evaluation report which stated that one limitation of these pre-consultations was that the findings could not be used to indicate agreeable deliverable with the co-applicants. CiRiC initiated with rigorous verification of the reports submitted by the partners and regional offices. This process helped in ensuring that the project's deliverables as per the log frame was adhered to. This initiative was coupled through monitoring field visits which will be discussed later in this section.

The work with construction workers has been done through four types of intervention:

- Collectivisation of the workers
- The Working People's Charter
- Skill training of construction workers
- Policy Advocacy
- Knowledge Building

¹ Page 15 of Mid Term Evaluation Report

² Page 15 of Mid Term Evaluation Report

3.1 Collectivisation of Workers:

The states and the cities which have been within the ambit of this intervention are:

Table 2: Details of collectives segregated according to gender

Regions	Partners Names	No. of collectives	No. of members	Men	Women
Odisha	Centre for Child and Women's Development (CCWD)	1	2271	1209	1061
Uttar Pradesh	Vigyan Foundation	10	2369	1979	390
Assam	Society for Social Transformation and Environment Protection (sSTEP)	1	38	23	15
Madhya Pradesh	Institute of Social Research and Development	1	149	136	13
Aurangabad	Paryay	10	831	210	621
Bihar	Nidan	30	103	39	64
Rajasthan	Antakshari	10	2020	1496	524

*The numbers are based on -primary level data collected and reported by partners as on Sept 2018

The collectivisation process is an important approach that was proposed to organise the PIEs into work-based associations which helps them to collectively assert and advocate for securing social protection and the right to decent work. The process of organising was initiated through awareness generation programs and training programs with the construction workers to inform them about their rights and provision in the Construction Workers Act(BOCWA).. The collectivisation process has a lineage with the robust work of the partners with construction workers groups in most of the target cities for the past 10 years. The axis of work was along advocating for establishment of labour nakas with basic amenities, recognition and identity as 'workers' and likewise. The EC-PIE was an avenue to move a step ahead from by organising workers into collectives, with a membership on minimum 10

and extending up to 50 members. The intervention recognised that the momentum of collectivisation process is time-consuming, and hence smaller collectives will snow ball into medium to large scale collectives. The strategy employed for the collectivisation was regular meetings and conversations with the workers groups, training on rights and entitlements etc.

3.1.1 Note on the Nature of Collectives

The term “collectives” was interpreted in the context of the geographical, political and culture and thereby differential quantification and membership norms were followed in different regions. This enabled the development of different styles of collectivising and a more democratic approach to not only build the collectives but also address their unique demands and needs as workers. As of September 2018, the data reflected that in seven states, there are 6514 members with 63 collectives in the construction workers’ intervention. The number and the members of the collectives varied from state to state. While Maharashtra has 10 collectives with 831 member, Madhya Pradesh has 1 collective with 149 members. Variation in the numbers of collectives is reflective of state-based socio-political contexts.

Each of the collective, irrespective of their membership base no matter on which point they stand, have contributed in mobilising and facilitating services to the construction workers. It can therefore be concluded that the decision in project design to not dictate straitjacketed modes and forms of organising the workers has yielded positive results. ActionAid Association through the regional offices and CiRiC continued to act as the support system to the direct interventions by being part of the strategic planning. The projects’ review and reflection process towards the end of the third year has been one of the best strategic decision to understand and consolidate the various interventions by highlighting some of the key intervening areas and impact.

The bottom up approach has been one of the popular methods for community intervention among the civil society groups. However, this prolonged approach has few debatable arguments on its impact to reach the larger societal goals. This debate has been on the line of quantitative vs qualitative, i.e., is the success of the collective measured through the number of the members or is it measured through

the identified milestones that it is able to achieve? These questions can be analysed through drawing conclusions from the project's activities.

To seek the answer for the above question, we will compare two organisations – one with a large membership like Vigyan Foundation and another organisation with comparatively smaller membership like Institute of Research and Social Development (ISRD). The later started its achievement by the formation of collectives with the beginning of this project. In the first year, the collective members under the facilitation of ISRD had started initiating processes to resolve the members issue within collectives and to submit application to the govt. authorities for accessing social benefits. While on the other hand, Vigyan Foundation based on their already established large collective, stepped into the project with activities like policy negotiation with the State labour departments. In the first year, under the facilitation of Vigyan Foundation, 221 workers were registered with the Welfare Board and as an outcome of policy advocacy, labour camps were organised by the labour department³.

Even with the different level of gains by the collectives in these two cities, the positive impact of the project has been that it has enabled more grassroot organisations to indulge into the micro and macro challenges faced by the construction workers by mobilizing them for their workers' rights. Therefore, addressing the question asked above on how we can measure the success of the collectives, it is concluded that the success of these collectives should not be measured in the singular framework based on pre-defined outcomes, but it is to be measured based on their trajectory paths. Hence, a uniform framework will not do justice in capturing the various efforts.

One of the key strategies for the collectivisation process has also been to facilitate the accessibility of social benefits by the workers. Irrespective of different stages of collectivisation process, all the partner organisations have been successful in linking the construction workers in accessing social security schemes and more importantly registering them with in the Construction Workers Welfare Board.

3 Annual Report of Vigyan Foundation and ISRD

THE EFFORT OF COLLECTIVE IN ACCESSING SOCIAL BENEFIT: CASE STUDY FROM BHUBANESHWAR

Deceased family members receive death benefit from Odisha Building and Other Construction Workers Welfare Board (OBOCW). In this context, Late Akabar Khan who was working as a construction worker in Bhubaneswar city died on 7th July 2016 at 6.30 am due to heart attack. After the funeral work, the family members shared with Asangathit Sramik Manch (ASM) the news. Late Akabar Khan was an active member of ASM Science park slum from the period of 2014 to till death. He was also enrolled under OBOCW bearing registration number -35974/14 with the effort of ASM.

The Manch members collected the relevant document and submitted in district labour office Khordha, Bhubaneswar to provide the death benefit support to the family. Due to long procedures like verification, data collection and also staff shortage, it was not possible to get the benefit within the time. Lastly the Manch members met with Chairperson of OBOCW to share problem. The chairperson assured that within one month the family member will get the benefit. Lastly the wife of the deceased who was named as the nominee received the death benefit of amount INR 1, 05, 000/- (1, 00, 000/- for Death Benefit and 5000 for Funeral support).

Based on the above table, it is concluded that the number of workers who have received the benefits is proportionally equivalent to the size of the collectives (Table 3). This shows a clear relationship between the size of the collectives and the ability to facilitate the workers' accessibility to social benefits. This also works in a circular format of increasing the membership of the collectives as more workers receives benefits, more they influence their peers to join the collectives with strong dedication.

BENEFIT FROM WELFARE BOARD - ACCESSING EDUCATION SCHOLARSHIP: A CASE STUDY FROM GUWAHATI

Mr. Phukan Rajbongshi had come to Guwahati 40 years ago. Since last 15 years, he is working as a painter. His family is still living at his native place in the village. He has two sons and both are studying in school. One is class VII and another is class IX. Mr. Rajbongshi earns a daily wage of Rs. 300 to Rs. 400 and gets work for only 10 to 15 days. As part of sSTEP's awareness campaign on social security scheme, he registered his name under the Assam Building and Other Construction Workers Welfare Board.

Table 3: Details of entitlements accessed as per region

Regions	Partners Names	Number of persons	Types of Social schemes
Bhubaneswar (Odisha)	Centre for Child and Women's Development (CCWD)	5586	assistance for purchase of safety equipment, Death benefit and assistance for funeral expenses. Death Benefit and assistance for funeral expenses, educational assistance, marriage assistance.
Lucknow (Uttar Pradesh)	Vigyan Foundation	942	central government schemes on Medical benefit, mother and child welfare, Accidental insurance, Education support, Widow pension and the Jan Dhan Yojana.
Guwahati (Assam)	Society for Social Transformation and Environment Protection (sSTEP)	9	Registered under the Welfare Board
Indore (Madhya Pradesh)	Institute of Social Research and Development	518	Prasauti Sahayata and Janani Suraksha Yojana
Aurangabad (Maharashtra)	Paryay	1315	Voter ID, Adhar Cards, Registration at BOCW, BPL Ration Card, scholarship for children,
Patna (Bihar)	Nidan	341	old age pensions, widow pensions and loans for building houses and toilets
Jaipur (Rajasthan)	Antakshari	No data	
TOTAL		8711	

He also registered himself with the labor union formed by sSTEP and is an active member helping sSTEP in organizing meetings and trainings. He applied for education scholarship in the labour department and also received Rs. 4000. He is also connected with social security like PDS (BPL card), Atal Amrit Abhiyan etc.

3.2 Working People's Charter

The role of CiRiC in this project has also been as the institutional member of the Working People's Charter(WPC). This process, in its inception, has been able to bring together large number of informal workers' unions from across the country. These Unions are mostly engaged with the construction workers. The success of this process has been in concretizing the demand for social security for the informal workers. Through this process, CiRiC has been able to reach out to the organisations and people's institutions beyond its project partners.⁴ Although, more effort to incorporate the Regional Offices would have added the momentum in its state level advocacy process also.

The WPC has been focused on demanding social security and minimum wages for the unorganised workers. Many of its members are working with construction workers and have come together to join the larger demand of social security and minimum wages for the informal sector. It is through this agenda that the WPC has been also trying to address key issues of the construction workers. A glimpse of WPC's work on these issues can be found below.

3.2.1 Social Security

In October 2015, a national consultation was organised to pursue the demand of Right to Social Security. This consultation saw participants from more than 20 states coming together towards a common objective.

In the same arena, a national consultation meeting, "Round-Table on Social Security of Unorganized Workers", called by WPC's secretariat and Rashtriya Hamal Panchayat on 23rd December, 2015 at IGSSS, Lodhi Road, New Delhi, where over 30 participants from 10 states namely,

⁴ Please refer to Appendix 1, Working Peoples' Charter: The Journey

Andhra Pradesh, Telangana, Karnataka, Maharashtra, West Bengal, Delhi, Rajasthan, Uttar Pradesh, Gujarat and Odisha came in to participate.

Pune was the follow up destination for another consultation on social security, which was being organized together by the WPC's secretariat and the 'Rashtriya Hamal Panchayat' at the Hamal Panchayat Bhawan in Pune on 18th January 2016. More than 25 prominent activists working with informal workers from over 10 states participated in the meeting. WPC agreed upon 5 non-negotiable demands for social security, viz. identity, death and disability, maternity, health and employment security.

A national consultation on social security for workers of the informal sector was held on 31st January & 1st February 2016 at India Social Institute, Lodhi Road, New Delhi. The programme was jointly organised by the Working People's Charter and the Rastriya Hamal Panchayat, and saw the participation of 60 activists from 20 states and union territories of India. Towards the end of the consultation, the campaign was named as "The Right to Social Security Campaign" or "Samajik Suraksha HaqAbhiyaan".

Right to Social Security Campaign (RTSSC) was launched, and gradually a press conference was organised on 1st February, 2016 in New Delhi. It was addressed by veteran social activists and academics such as Dr. Baba Adhav, Swami Agnivesh, Prof. Ravi Srivastava, Sh. Arvind Singh (NASVI) etc. The RTSS Campaign delegation was led by Baba Adhav where he met Minister of State Finance Shri Jayant Sinha and Shri Sharad Yadav.

This subsequently led to the charter organising a Yatra on Social Security in 3 states, viz. Maharashtra, Uttar Pradesh and Odisha.

Meetings and awareness campaigns, and a consensus was built on deteriorating plight of domestic workers.

Southern, Eastern, and Western Regional Consultations were organised in Bangalore, Kolkata, and Mumbai respectively, where WPC representatives facilitated discussions and associated groups of unorganized sector workers with the campaign.

A 2 day state-level consultation was organised by RTSSC in Jaipur, Rajasthan on 8th and 9th September, 2016. Around 70 participants from 33 districts of the state attended the consultation to deliberate upon the issue of social security for informal workers.

On 6th January, 2017, an Inter-Ministerial Meeting was organized by Shri Ramdas Athawale with the Secretary and senior officials from the Ministry of Social Justice, Ministry of Finance, and Ministry of Rural Development.

3.2.2 Minimum Wages

Under the scope of Minimum Wage, a convention was followed by a meeting with the Chief Minister of Delhi after which Delhi Dialogue Forum and the Minimum Wage Advisory Board started working on this issue.

With regard to Bonded Labour issue, the National Campaign Committee for Eradication of Bonded Labour (NCCEBL) brings together several organisations from all over the world in a national level workshop in Delhi. This committee advocates framing of bonded labour policy framework (prevention, identification, rescue and rehabilitation).

3.3 Skill Training

Skill training has been another approach adopted in this project as one of the means to outreach the workers and its family. The targeted audience as recipients were those workers who are already in the informal sector and would enhance their skills after receiving the training. The two major challenges that was faced in the skill building was the non-availability of time from the workers to attend the trainings as that meant losing their daily wages and difficulty in job placement. However, irrespective of this challenge, the project was successful in achieving its targets. One of the good strategies was to impart skill trainings that would enhance the existing skills of the construction workers.

ActionAid Association's engagement with skill training program in the past has been limited. At the inception of the project, each partner organisation had to propose their respective skill training plan. All the partners who are engaged with construction workers chose to be part of this program. In line with the design of the project, as the first step, each of the partners announced the training courses and registered

Table 4: Details of construction workers' skill training

Name of the City	Training Topics	Total Numbers Trained
Bhubaneswar (Odisha)	NA	NA
Lucknow (Uttar Pradesh)	Technical toilet building	42
	Injection moulding	33
Guwahati (Assam)	Masonry	105
	Painting	125
	Carpentry	77
	Plumbing	53
Indore (Madhya Pradesh)	NA	
Aurangabad (Maharashtra)	NA	NA
Patna (Bihar)	Masonry	170
Jaipur (Rajasthan)	NA	NA

the interested applicants on first – come – first basis. After that, a detailed need assessment was done to analysis the applicant's existing skills and the potential of the training to improve the skill sets of the individuals.

From Table 4, it can be seen that the general demand for the skill training of construction workers is related to masonry, plumbing and carpentry. Even though the data presented is not huge but considering that the demand for these topics have been shared by the workers, it can be assumed that the type of work which is more in demand by the daily wage workers are these ones.

In one of the internal assessment reports⁵ of the skill training programme, it

⁵ ActionAid Association Skill scoping paper

was found that this target of job placement was achieved by 81 percent and out of this 73 percent were self – employed. The paper analysed the need of the construction workers in each of the intervening city. it creates a data base which is not only rich in understanding the skill training need of the construction workers but also analyses the reasons for the choice of the trainings. For instance, it was seen among the women trainees that their inclination to get training in beautician was more. This was a source of secondary income.

This internal assessment facilitated by CiRiC has been a good initiative to consolidate its first attempt towards a large-scale skill training programme. The report brings out many interesting perspectives such as the role of gender in the choice of training topics, the composition of social groups in certain training topics, among others. This report has not only highlighted the points that have been successful through critical perspective but also proposes recommendations based on its own internal learning. This report is a huge contribution to the knowledge of skilling informal workers.

SKILLING FOR ADDITIONAL INCOME: A CASE STUDY FROM PATNA

We are happy that training for making South Indian Foods is very beneficial for us which help us to get better livelihood option and live a dignified life we have displayed our stall in Saras Mela under a brand name of Umang Mahila Mandal which is organized by Bihar Government with the help of Nidan. In this mela we displayed our food stall for fifteen days in which we displayed Items Like Idly, Plain Dosa, Masala Dosa, Paniyaram, Uttapam, Sambhar Wada and per day we sold up to Rs 8000 during this mela. It's a great opportunity that we had got after completion of training to start our own business venture so that practically we will learn what are the gaps and barriers we have to face when we starting our business structure how we have to manage all these gaps and barriers. In this Mela we invest Rs. 15000.00 or our total sale for fifteen days is Rs.150000. We have saved Rs. 40000.00 along with all expenses people likes our taste and serving style that's why we had got a good response from visitors in this Mela after that we have inaugurated a stall at Boring road chauraha and purchase an Electric Rickshaw so that it helpful us at time of serve up an order we put all the equipment on E-Rickshaw and going for accomplishment of order.

ANALYSIS OF WORKER'S DEMANDS FOR SKILL TRAINING

ANDHRA PRADESH

They informed that quarry works, masonry works, sand works, rod bending works, plumbing and other related works were the main livelihood aspects for them.

They preferred trainings that were related to these aspects. Specifically, they shared that they had the following requirements: Safety measures, masonry training and electrification and plumbing.

They also shared that if they received any stipend then they would be ready to take skill development trainings.

They shared that the income generated by them was not adequate for the maintenance of their families, and that training might help them increase their earnings.

They did not want their children to take up the same work.

ODISHA

Women participants shared that they took training in making of agarbattis, candles, badi (savoury), papad, pickle etc., but that they had difficulty in selling them, and hence had to leave it.

The women workers wanted to take training on cooking, tailoring, house-keeping, mason, catering, carpenter, electrician, painting, driving etc.

40% PIEs (both men and women) were ready to give time to acquire new skills.

The men did not want to change their livelihood just wanted dignity at the workplace and better wages.

They did not want their children to take up this profession.

RAJASTHAN

In Jaipur, men were interested in contractual work while women showed interest in tailoring.

MADHYA PRADESH

The construction workers wanted a job which would provide them with sustainability and commitment of long term employment and also higher income.

They did not evince interest in skill building due to lack of time and loss of wages during the trainings.

They were also quite skeptical of getting a different livelihood.

Some of the youth wanted to take training in mobile repairing, computer, electrical works, building management etc.

They shared readiness to take training for 3 months. They however wanted free trainings due to limited source of income.

MAHARASHTRA

Women workers were interested in beautician related work, mobile repairing, tailoring, packing, pickle making etc.

Men were interested in packing, electrician works, plumbing, light fitting, painting etc. However, they were not aware of any organization imparting such trainings.

68% of the respondents shared that they could allocate 15 days per month for trainings.

3.4 Policy Advocacy

This is one of the most crucial agenda of the project. The common agenda across all the cities and states have been to engage with the respective state's Labour Department for effective and efficient implementation of the Construction Workers' Welfare Boards, primarily through two parts – registration of the workers and their access to the social schemes provisioned by the Board. Majority of the states and cities have been successful to a great extent in ensuring the registration of the workers. However, this has not been a smooth process for them. The challenges faced by each of the partner organisation in this process are mostly common, i.e., unwillingness of the labour department to make amendment in the required documents, lack of human resource in the labour departments, unavailability of the workers to follow-up the registration process due to the risk of losing daily wage, lack of awareness and interest among the workers to pay the annual registration fees due to no explicit gains.⁶ These are the major reasons for the struggle in registering the construction workers.

⁶ Pg 8 of this report See Chapter 1 Section 1.5.4 of this report– "the functioning of the Workers' Welfare Boards", for a brief overview of issues raised by partners from a number of states in CiRIC's national workshop.

However, there have been examples where the partner organisations and the Regional Offices have been able to liaison with the Labour Department for adoption of pro-workers practices and policies. For instance, in Uttar Pradesh, the Labour Department had organised registration camps in the labour addas for the registration process by also reducing the registration fees from Rs.100/- to Rs.40/- and renewal fee from Rs.50/- per year to Rs.20/-. The concerned labour department had also started a toll-free helpline number (1800-180-5412). The partner organisations have been able to get gain representation in the Welfare Board. Likewise, Antakshari from Jaipur has also been able to negotiate with the concerned Labour Department to organise one camp each month to specifically address to the grievances of the workers.

All the above policy advocacy has been possible due to strong and active functioning of the workers collectives in these cities. The cities with strong collectives have been able to negotiate few amendments and establish pro-workers practices with the labour department. However, there are also other states like Assam and Bihar where the process of collectivisation has not been very strong and therefore, they have not been able to negotiate pro-workers terms with the Labour Department. However, the reason in both these States have been because of different reasons. During the field visit to Guwahati, it was seen that because of the on-going process of National Register of Citizen (NRC) that have aroused the political negligence to the Bengali Muslim workers and also the government employees of the welfare board was deputed for the NRC process.

However, Bihar has adopted an alternative agenda of policy advocacy for construction workers that is beyond the framework of the Welfare Board. The Bihar Regional Office has been able to sign a MoU with the Labour Resource Department to facilitate the registration of migrant workers and to develop a working model that can facilitate the accessibility of social schemes for these workers. Although, it doesn't address the construction workers solely but it to a large extend covers the sector. It is important to mention here that the Assam in itself is going through its unique challenge of NRC process. Based on the experience of working with the construction workers, the Guwahati Regional office, has observed that there has been a negative impacted the registration

process of the construction workers who are majorly accused of being “illegal immigrants from Bangladesh”. This was corroborated by one of the Welfare Board members during the field visit for review and reflection.

These highlights that there is a direct linkage between the collectivisation process and the policy advocacy. Without a mass mobilisation of workers, any policy change and amendment are a difficult process. This is something that this project and ActionAid has adhered to and kept as an integral part.

The other way in which the Partner Organisations and Regional offices are undertaking the policy advocacy process is through building networks and consortiums. Within this, the Regional offices have made attempts to engage in the other issues effecting the construction workers. For instance, the Bihar Regional team is advocating for inclusion of migrant workers in the Food Security Act and for effective implementation of the Inter-State Migrant Workmen Act, 1979. This process of building network has to be pursued rigorously. There is a need to create vibrant networks either in the city or state level on the issues of informal workers.

A detailed list of the policy agenda for ActionAid Association recommended is attached as Annexure 1.

3.5 Knowledge Building

MIS Data Creation: The project has established the practice of collecting rigorous data from its intervention and consolidate these data to generate multi-dimensional reports. The development of a well-thought software has enabled one to get a quick report of multiple factors. This practice is also going to support the partners, beyond this project, to understand the relationship between its intervention and the impact on the larger political economy.

Scoping Paper for Skill Training: As mentioned earlier, the assessment report of skill training is one of the most important contributions to the sector of informal workers.

India's Labour Law Changes⁷: This study on the changing labour laws in India is also an important knowledge product that details out the way in which the Indian Labour laws are affecting the informal sector.

Draft Labour Code on Wages Bill and Draft Labour Code on Social Security and Welfare Bill: The Working People's Charter has led the process to decode the Draft Labour Code on Wages Bill and Draft Labour Code on Social Security and Welfare Bill for workers and their leaders across many states of India with active support from CiRiC.^{8,9}

7 Bhattacharjee, S. S. (2016). "India's Labour Law Changes: Toward advancing principles of rights, inclusion and employment security". Society for Labour and Development (supported by ActionAid India). New Delhi.

8 Raaj, Vaibhav. (2017). "Draft Labour Code on Social Security and Welfare, 2017: 7 Questions of the Workers". Policy Brief. Working Peoples' Charter and ActionAid India. [In English and Hindi]

9 Raaj, Vaibhav. (2017). "Labour Code on Wages Bill, 2017: Giving the workers what employers want." Policy Brief. Working Peoples' Charter and ActionAid India. [In English and Hindi]

Chapter 4

Recommendations

Since city-based consortiums have already been established, it would be wise to continuously nurture them to take forward the challenges of construction workers with a more comprehensive approach. The State level Chapters of Working People's Charter can be a possibility.

To continue the process of collectivisation and strengthen the existing collectives, there is need to develop linkages between existing collectives and other national groups and trade unions.

The project is leaving behind a sophisticated way of using the data – both data capture and data analyse skills by partners. The partners should continue doing it to work with the data to develop strategic interventions.

To encourage the synergy between the discussion on informal sector workers' and other topics such as climate and cities and city management through informality, there is a need to organise many more occasions talks to facilitate such deliberations.

Based on its large-scale skill training experience, there is need to develop a tool-kit that can serve as guideline or framework for training informal workers.

Annexure 1

Agenda for Policy advocacy

1. Portability improvements in policy design

- Portability mechanisms should be incorporated in the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (BOC) system to ensure easy registration and access to benefits for inter-state migrants.
- The portability of the RashtriyaSwasthyaBima Yojana (RSBY) platform can be expeditiously deployed for introducing portability in the BOC.
- Preparing state boards for portability:
 - ◇ State boards should be automated with standardised data entry formats across states. Data validation issues need to be addressed.
 - ◇ Linking of Aadhar should be done to prevent duplication- with due provisions for protecting privacy.
 - ◇ Standardisation and uniformity of entitlements and benefits; of work processes in the boards across states is required.

2. Strengthening of the Labour department

- Contractual staff should be replaced with full time employees to ensure accountability and continuity in the registration process.
- The central government should provide clear guidelines to the labour department for various steps of implementation.

3. Strengthening of the state boards

- The state boards should be allowed to use part of the cess funds collected to employ their own staff and have some basic infrastructure to carry out the registration process on their own.

- The state boards' functioning should be made autonomous (of the labour department) with a full-time secretary in charge of each board.
- The state boards should be allowed to function fully till the time new institutions are in place under the proposed Draft Labour Code on Social Security and Welfare.

4. Campaign mode of registration

- International Labour Organisation (ILO) should take up a registration campaign again, as it has successfully done in the past.
- The approach towards registration should be target-oriented and monitored accordingly.
- Block level registration officers should be appointed to ensure adequate outreach.

5. Automation of database management

- There is an urgent need for automation of the maintenance of the database of registration for improving the quality of the database, facilitate accurate and timely reviews and prepare the grounds for portability.
- Data sharing between all state boards should be facilitated to allow renewal of registration in destination states.
- National level portal should be formed using IT to ensure uniformity and aggregation of the data from all states and to ensure portability and service delivery for all the workers.
- The automation model shared by the Uttar Pradesh Board and other states' representatives should inform the national automation process being undertaken by the Ministry of Labour & Employment (MOLE) and the ILO.

6. Convergence and simplification of rules and benefits across states

- There should be uniformity in policy, rules, processes of registration and benefit delivery made by state governments under the BOC Act.
- There should be a central board to ensure inter-state coordination between the boards, with a focus on catering to the special needs of the migrant workers.

- The central board should expand its work in order to introduce central schemes through the BOC.
- While the government will take its time in implementing the new Social Security Code, ESI and PF, in the meanwhile, should be linked to corresponding schemes under the BOC.
- The government should issue directions for simplifying the registration process.

7. Effective participation of recognized trade unions

- The government should recognise the trade unions as the primary agents for registration as they are most accessible and accountable bodies of the workers.
- The state boards should regularly communicate with the trade unions about processes and respond to their queries when received.
- Trade unions should pro-actively engage in the registration process and ensure curbing of corrupt practices among their local leadership.
- Regular social dialogue between the trade unions and employers should be ensured.

8. Mandatory registration by employers

- Construction tenders and contracts should have a necessary clause binding upon the contractors to register their workers and submit their list for the clearance of the first payment.
- The MOLE should make it mandatory at least in government contracts for employers to register their workers.
- The MOLE should make it mandatory for the employers to have all the details of all workers working on their sites.

9. Effective collection and utilisation of funds

- Existing funds should be divided into separate corpuses dedicated to separate schemes and benefits to ensure utilisation.
- Once the construction sector comes under the purview of the GST, the government should reimburse the cess amount from the GST collected from the sector.

- State boards should come forward to share their funds for ensuring benefits to migrants from their states in the destination states.
- Benefits should be provided as rights instead of through patronage systems.

10. Activation of other informal sectors' welfare boards

- Welfare boards for other non-construction organised sector employments should be activated to prevent the influx of non-construction workers into the BOC.

Annexure 2

A close look at the engagement with construction workers in Guwahati, Assam

A field visit was conducted by representative from CiRiC team, Chandana Dasand Bhubaneswar Regional Team, Ghasiram Panda. The two-day field visit was to explore the Partner Organisation's work on the construction workers.

Society for Social Transformation and Environment Protection (sSTEP) was initiated in the year 2001 and it started its urban program through intervention with street children. In 2004, the organisation gained big momentum through its work with the street vendors. The work with the construction workers came in later after the EC PIE project. As per sSTEP study 2004 (Profiling Urban poverty in Guwahati City), construction workers are one of the most vulnerable groups in Guwahati city. There are 40000 thousand plus people engaged as construction workers among them 30% are women workers who are most vulnerable.

During the visit the team interacted with the:

- team members and leadership of sSTEP
- street vendors, construction workers and their leaders at Six miles, G S Road, Zoo Road, Paltan Bazar
- government official
- members from the trade unions and the Building and Other Construction Workers Welfare Board, Regional Manager of ActionAid
- leadership of Assam Pradesh Griha Aru AnayannaSramikSangstha, a union of construction workers

Major observations

sSTEP has a strong foundation of working on worker's issues. The or-

organisation has been engaged since 2003 with the struggle of street vendors and other workers in Guwahati. The deep understanding among the leadership of the organisation on the issues is the strength which is seeping into the implementation of the ongoing project. The support of ActionAid Association through EC has expanded and deepened the scope of the organisation to work with vendors and labourers. The relationships with other organisations, especially the institutions providing skill building trainings has enhanced. The major works that have been undertaken are registration of the construction workers under the building and other construction workers welfare board, providing vocational training to construction workers and life skills especially focusing on customer relationship and maintaining hygiene to street vendors.

sSTEP is facilitating 32 area committees and a central committee of the street vendors. These area committees are in different vending zones. sSTEP has been facilitating workers groups with around 500 members in 40 labour addas/nakas. Committees of labourers have been formed in 7 addas out of which 1 is of exclusively of women. sSTEP has played a vital role in formulation of the state rules under the street vendors Act.

While having an interaction with Ms A. Sharma, the Asst Labour Commissioner of Kamrup (M), Guwahati, we came to know that her office is registering the construction workers through organising camps. However, the lack of human resources in the department has been a major challenge to deal with such a huge number of workers. The issues of appropriate documents to qualify as a construction worker are also a major concern apart. In this, sSTEP plays a vital role in supporting the construction workers in arranging the required documents. The Labour Commissioner also acknowledged that this has been a great support.

sSTEP has been supporting and expressing solidarity to the struggle of street vendors who are being evicted by the Guwahati Municipal Corporation (GMC) in the G S Road. Some of the case stories of the vendors who have been evicted are:

- Parameswar, a street vendor who is also taking a lead in the movement said that they have been vending in that locations for last 21 years and still they are being evicted multiple times because the doctors of the nearby Hospital complained about them.

- Adding to the discussion another petty business owner Rina Sharma also told that they have deposited Rs. 200/- each with the GMC in 2015 and having the receipt. Instead of recognizing and settling them they are now being evicted.
- Dipanmita Devi had a betel shop. She had an earning of Rs. 300/- per day which helped her to become independent. From this income she had to spend for the school fee of her son. Now as the shop is closed, facing lots of financial constrain. As because of which she has been forced to bring back her child from the private managed English medium school to nearby Govt school. She is now not been able to purchase medicine for her husband.
- JakirHusen is the president of the Six Miles branch of Assam Street Vendor Association. He told that there is always a threat for re - eviction as the traffic division is yet to approve this relocation. We have been celebrating national days by hosting flag, maintaining cleanliness by ourselves to create the situation in favour of us. However, there are no toilets, facility of electricity is creating unconducive environment for the vendor he added.

These cases are not in isolation as there were as many as 188 shops in that street and all of them are going through abysmal situation. However, no one has left the hope. Under the banner of Assam Street Vendors Association, formed with the support of sSTEP and ActionAid Association Guwahati Regional Office, they are continuing their struggle. However, the workers requested for more support for legal action.

We also visited the vendors that had received life skill trainings and it was found that the vendors were satisfied with the training. However, they gave the feedback that it has been difficult to close their shops for many days and go for the trainings.

Abdul Kalam Azad is a street vendor having a food stall in Six Miles. He attended one of the skill development training facilitated by sSTEP under the EC – PIEs project. Abdul said that he learned how to behave with costumers and maintain hygiene. The vending zone under the fly over is a recent set up. Earlier we were in the other side of the road. We had different type of costumers on that side so had to prepare different food items.

Now the menu has changed so also the income. While my stall was in the other side of the road, the approximate selling was up to Rs. 5000/- a day which now has been reduced to INR 3000/- a day said Abdul.

Assam Pradesh Griha Aru AnayannaSramikSangstha is a central forum for the construction workers facilitated under this project. There is a vibrant executive body managing the forum. While having a meeting with them they shared that they have been organising football matches and picnics to facilitate and motivate workers to come together. This is a different and unique way to bring people together in a very informal way. The *Sangstha* is helping in creating awareness on the social security measures under the Building and Other Construction Workers Welfare Board. However, they are still struggling to streamline the process of registration. There are at least 7 different documents that must be submitted for the registration under the board. Managing this has been a difficult task for them. The forum has a future to be registered as a union.

We had an opportunity to interact with the members and leaders of the construction workers in the labour adda at Zoo road, Tiniyali. Many of the labourers told that they usually avail work in group. These groups are formed mostly among the closely known to each other. Younger people are more preferred than the old aged people. On an average they could only avail work for 10 days in a month. The wage rate per day is Rs. 400/- for man and Rs. 350/- for women. However, when they go for a group work, on an average they could earn only Rs. 150/- per day. Many of them have loan from grocery shop and micro finance companies. As the labour adda is in a busy square and there are shops so the workers could stay there only till the shops get open. Shop owners forced the labourer to vacate the space after they open their shops. Even there are instances that they through water on the labourer, humiliate them and force them to leave that space. There are no any basic amenities nearby. Hence in case they want to urinate, they have to go back to their home. In this particular labour adda there are around 500 labourers gathered every day. However only 33 labourers have been registered as member in the area level committee. The major constrain is most of the labourer don't have any identity proof and the leadership has decided not to take anyone as a member without having at least one identity proof.

The next meeting was with Tapan Sarkar who is a member of the Assam

Building and Other Construction Worker Welfare Board. He represents the board as president of Sadru Assam NirmanSramik Union. He shared that there is no survey conducted to identify the eligible workers. However, on an assumption there may be around 10 lakhs eligible workers in the state out of which only 1.4 lakh have been registered. After the amendment of the Rules in 2017, the Minister of labour is now by default is the chairperson of the board. Hence this is more politically controlled and other board members are not getting that importance.

We also met, Jayanti Gogoi of All India Kishan Sabha and Phanindra Das of All India Trade Union Congress. Both of them are also a member of the welfare board are also of the same opinion. Mr Das shared that the board appointed 90 temporary employees for the purpose of expediting the registration process. However, many of these officers are engaged in other activities like facilitating the National Register Citizens process. This is because the board is mostly dominated by Govt officials. He also shared that as many of the labourer are landless, scheme like support for housing will not be fruitful.

Recommendations

The engagement with construction workers in Guwahati is in a right direction. Based on the strength of the partner and support from the regional office many achievements are visible. However, some thinking on the following points may brought value addition to the ongoing work:

- sSTEP has undertaken the strategy to form committee at market level. It has its own advantage. However, some focus may also be given at the source points i.e. at the slums where these labourers are residing. At slums the time for interaction will be more. By doing this, the facilitator will be able to understand and address the issues of basic amenities at slums, issues of children and the like.
- Participation of women at different level needs to be increased. At present there is only one exclusive women group of construction workers. The learning from this group may encourage the organisers to formed and facilitate more such women groups.
- The construction workers need more inputs on the process of registration under the welfare board as well as on the schemes for assistance from the board.

- The norms to produce at least one identity proof to become a member of the area committee may have its own justification and requirement but this is one of the reasons that may act as a barrier for the workers to become a member. Hence the leadership might like to bring some kind of flexibility for this – for instance, if some existing member can certify or recommend other to be a member. This will help to increase the membership of the area committee.
- Advocacy with the Welfare Board through engagement with the chairperson to inform and make aware of the provision and process existing in other different states.
- Advocacy for a minimum work guaranty in urban areas like the MGN-REGA in rural
- Advocacy for allocation of space for labour addas with ensured basic amenities.
- Engaging with pro bono legal experts to provide necessary support to the ongoing struggle of street vendors facing eviction challenges.
- Engaging with trade unions and other labour experts for increase deliberation on the impact of labour code.

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