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The Unrecognized Women Construction Force of India A Study on the Role of Trade Unions.

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Disclaimer:

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List of Acronyms

SEWA	Self Employed Women's Union
BWI	Building and Wood Workers International
CTUO	Central Trade Union Organisation
BOCW	Building and Other Construction Workers (Regulations of Employment and Conditions of Service) Act
MOL	Ministry of Labour (India)
NCC-CL	National Campaign Committee for Central Legislation on Construction Labour
TUA	Trade Unions Act
MHT	Mahila Housing Trust
NSSO	National Sample Survey Organisation

Abstract

The sight of a woman carrying a headload of concrete bricks is ubiquitous in India and this serves as the basis of this research paper. Within urban India, informal construction workers are mainly casual workers with 95% being women and 74% being men. With this said, identifying the needs of these women and providing adequate welfare channels is essential for the health of the workforce and in turn the economy. Fighting for the rights of such vulnerable groups and being their voice is a specific group of trade unions. Through semi-structured interviewing, three different grassroots sector-specific unions, focusing on the welfare of construction workers were interviewed. These unions are; The Self-Employed Women's Association (SEWA), Building and Wood Workers International (BWI) and Nirmana. In conclusion, it was found, that the majority of trade union influence lies outside the provisions of the Building and Other Construction Workers Act (BOCW). Trade unions were deeply involved in campaigning for the act, but their authority for its implementation is limited. The most they can do in accordance with the act is to spread awareness of the welfare schemes available under the act and ensure all workers are registered for it. Independent of the act is where the majority of their influence lies. Trade unions support women by providing skill development programmes, creating employment linkages, liaising with the welfare board on the needs of women and ensuring that they are aware of their rights. I saw a gap in the literature when it came to understanding the role of trade unions in this sector. Exploring this perspective is essential for the bigger social science field, as trade unions play a major role for vulnerable groups. This is of course not to say they do not have their limitations and restrictions, yet understanding the functions and goals of unions can offer a pathway to understanding the social landscape from a new lens and finding better more suitable initiatives.

Relevance to Development Studies

India poses a special case when it comes to the construction industry. Construction is a key measure of development across the field and is a pre-requisite to socio-economic growth but still much of the industry in India exists in the informal/unorganised sector. Where workers work on no fixed contracts, have high levels of employment insecurity, questionable access to welfare schemes etc. Within this, women workers are much more vulnerable, as they are seen as cheap forms of labour by employers. This research paper, therefore, aims to identify the challenges women workers face in the industry, followed by an analysis of the role of trade unions. This is relevant to the field of development studies, as in a country like India, where gender roles are so concrete and burdensome on women and where there is an excess supply of human labour present. It is essential to understand the relationship between the two. Further, why are there so many women in such a male dominated space, this fascinated me and steered me towards wanting to dig deeper for the field of development. Specifically, researching the role of policy and the role of trade unions within such sectors can help create better scenarios for vulnerable groups. Investigating actors such as trade unions can reveal a lot about the state of development in India. Determining whether, they help progress development or depreciate it. It can then be further applied to the informal (unorganized) sector of other professions, especially in many other developing nations where women are consistently marginalized.

Keywords

Construction Sector in India, Unorganised Sector, Trade Unions, Cooperatives, Gender Divisions of Labour, Women Workers.

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At the beginning of my ISS journey, I never thought I would be writing a research paper on the construction sector of India. This side of my country is something I knew nothing about and I have learnt a great deal during this research process. Not only about my country and its sociopolitical landscape, but also about myself. My journey at ISS, through the various diverse classes, has bought out my fascination towards wanting to expand my knowledge on the topics of gender and labour. This research topic was the last step in igniting that passion. However, that is not to say that this research journey has been one mega roller coaster. Now I sit here, writing one of the last pieces of my paper, which I cannot do without acknowledging a few influential people.

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“Life begins at the end of your comfort zone”.

Introduction:

When it comes to imagining a typical male-dominated industry, construction, is one of the first sectors to come to mind. As it involves heavy manual labour it often has masculine behaviours and traits attached to it. However, the sight of a woman carrying a headload of concrete bricks to and from construction sites is ubiquitous in India. The construction sector of India is the country's second-largest employer of skilled and unskilled labour after the agriculture sector (Baruah, 2010). The majority of India's active working force functions within the informal sector, more commonly referred to as the 'unorganised sector' in the region. Nationally, as high as 90% of workers across all sectors are employed under informal arrangements (Raveendran and Vanek, 2020). Some sectors are better organized than others and allow claims to some formal channels such as welfare and social security benefits. This is the case for the construction industry, however, the relationship between employer and employee remains ambiguous and is ever-changing from state to state.

Construction is often seen as a key indicator of development, as infrastructural projects result in investments and the growth of the economy. Not only does it add to the economic health of a nation, but construction also produces structures that contribute to the overall productivity and quality of life of citizens. Hence, why it is an industry that is essential to visualising and measuring development. The political and economic dominance of the west has dictated architectural styles, where cities in the global south find themselves striving to look like those of the global north. Desiring these modern-looking homogenous cities is the face of development. Having high-rise buildings, international brands and efficient transport systems is considered to be peak development. Seeing such factors as a symbol of progress and modernity might need to be re considered and what exactly we see as a notion of development. However, in striving for these ideals, it exploits a great number of individuals and questions if development is actually occurring. In India, a majority of ex-agricultural labourers find themselves transitioning into this sector. As agricultural sectors die down in rural areas, workers find themselves migrating to urban areas to find stability. Yet, the extent and the level of discrimination they face in urban areas are tremendous and in need of academic and activist attention.

India poses a special case regarding women workers in the industry, although nationally more men are employed than women. Globally, more women workers are working in the construction sector compared to other world economies (Moir, 2016). In a traditional society, where women have rigid gender roles it is fascinating to see such a large percentage of women active. In the period 1980-2010, there were approximately 200,000 women in all levels of construction in the US and about 100,000 in the European Union (Moir, 2016, p. 5). Now, this is a stark difference to the millions of women present in India and showcases why it needs academic attention. Further, what makes the Indian case different to what is seen in the developed world is the informal vs formal categorization of the construction sector. In the developed world, almost all levels of the sector are categorized as formal. However, in India, the manual/casual labourers within the sector are classified as informal, and do not work on

fixed contracts. They occupy some of the physically hardest tasks, such as carrying raw materials, mixing cement, digging etc, that take a huge toll on their bodies as well as their mental well-being. Within urban India, where the majority of infrastructural projects take place due to rapid socio-economic growth. Informal construction workers are mainly casual workers with 95% being women and 74% being men (Raveendran and Vanek, 2020). This does not mean there are more women than men in the industry as a whole, but rather that women stay constrained to the informal side of the sector. In addition to this, women's labour is at the bottom of the work hierarchy, where women occupy mainly unskilled work and face restrictions in gaining skills and moving up the ladder (Moir, 2016). One of the key actors present in the socio-political field advocating for these women and ensuring their voices are heard are *trade unions*, which will be the focus of this research paper.

Using the Building and Other Construction Workers (BOCW) Act of 1996 as a base, this research paper will look at the role of trade unions in the welfare of construction women workers aiming to answer this research question - *What has been the contribution of trade unions for the welfare of women construction workers in accordance with the Building and Other Construction Workers Act of 1996, in Northern India?* The chapters of the paper will be structured as follows. Chapter two will be a literature review and theoretical framework, providing an overview of the status of the construction industry in India, the role of women within it and the beginnings of the BOCW Act. Indicating how trade unions, gender and the unorganized sector are conceptualised for this study. Chapter three will set out the methodological considerations taken into account when designing the interviews and identifying the units of analysis. Chapters four will provide additional contextual background, an overview of the Building and Other Construction Workers Act of 1996 (BOCW) and the existence of trade unions in India. Finally, chapters five and six will showcase the results of my fieldwork followed by a discussion of what it means for the broader society of India. The forthcoming chapter will put forth a literature review and the theoretical framework, which will serve as the basis of this research paper.

Chapter 2 – Literature Review and Theoretical Framework

The Construction Industry of India

The 1990s marked an important landmark for India, where globalisation changed India's economy and development model. The state of the construction industry changed immensely, and the newly developing nation invested intensely in infrastructure to facilitate socio-economic growth (Kakad, 2007, p. 207). Without a doubt, the construction industry is one of India's fastest-growing sectors and is the second largest absorber of unskilled labour following agriculture (Baruah, 2010, p. 32). By far, the biggest consumer of this industry is the government, both as a client and as a regulator of the sector, which poses many questions for the survival of this industry as a whole (Dogra, 2004, p. 8).

Although this industry has been seen as a pre-requisite to socioeconomic development it presents a myriad of problems to the people employed within it. In India, this sector is fully market-determined, meaning that the number of people employed in the sector can drastically vary daily (Kakad, 2007, p. 215). Most workers are part of the 'informal sector' or as it's referred to in India - 'the unorganized sector'. Although referred to as unorganized, what is ironic about this sector is that it is a regulated and organized informal sector. For example, workers assemble at points referred to as *labour chowk/Kadiyanakas*, to search for work and find contractors (Baruah, 2010). This way of finding work is routinized within the construction sector. It is common across all states, showcasing the level of organization even when it is classified as an unorganized sector. Workers work on a no fixed contract basis, face lots of wage discrimination, and get paid only what the contractor wishes to give them. There is no equal relationship between employer and employee as Kakad (2007) explains, this is due to the "product being stationary, but the site of production [always] changing" (p. 207). Further, the construction industry is constantly displacing its own labour, and as the preference for the use of modern technology increases, workers at the bottom of the pyramid find themselves being eliminated from large projects (Dogra, 2004, p. 9). The increase of mechanization in the industry is erasing the traditional style of the labour market the country is used to. To some, this is seen as a symbol of development and moving towards a more modern India. However, for a country like India with an excess supply of labour and high levels of poverty the need to save labour-based construction methods might prove to be more beneficial in the long term. Yet, the way the unorganized sector exists today is not sustainable for its workers, especially for the women workers that exist within such a male-dominated industry.

The Role of Women in India's Construction Industry

To understand the status of women within the sector, it is key to first understand what is meant by an unorganized worker. Under the Code on Social Security 2020, it has been defined as "a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by the Industrial Disputes Act,

1947 [...]” (Ministry of Labour and Employment, 2021, p. 98). A survey carried out by the National Sample Survey Organisation (NSSO) of the Ministry of Statistics and Programme Implementation discovered that there was a total of 470 million workers present in both the unorganised and organised sectors in the period 2017-18. Of this, 90 million were present in the organised sector and a colossal amount of 380 million was present in the unorganised sector.

Due to the unorganised nature of the industry, women face a myriad of challenges on a daily basis, from wage discrimination to mistreatment at the worksite. Many women are employed as unskilled workers undertaking tasks such as mixing cement, digging, and carrying bricks and other raw materials (Kakad, 2007). The figure below, taken from Kaveri (1995), showcases the division of labour present in the industry based on gender. Although it is from an old article, the figure is very much relevant. Nowadays, you may find some women present in skilled work due to various programmes of skill upgradation by trade unions. Yet the percentage of these women is still very low.

Fig. II

Work in Construction by Skill and Gender

		Gender	
		Men	Women
Skill Levels	Nature of Work	Done by	Done by
	Digging Excavation Demolition Curing Carrying Bricks etc.	Periyal (Helper)	Carrying Water Carrying Bricks Carrying Cement Carrying Mixture Providing/Placing implements
Skilled	Foundation Work Centering Concrete Pouring Scaffolding Operating Mixture Machine Laying Bricks Plastering Barbending Woodwork Electrical Layout Sanitary Fixtures Painting	(Periyal) with Supervision of Mason Operator Kothanor (Mason) Barbender Carpenter Electrician Plumber Painter	No skilled work is performed by women

Scanned with CamScanner

Figure 1: Work in Construction by Skill and Gender. Extracted from; (Kaveri, 1995, p. 76)

These types of tasks are deemed to be simple, hence why given solely to women workers. This kind of gender stereotyping, seeing women's work as simple and requiring less skill is what allows employers to justify their low exploitative wages for women (Kakad, 2007, p. 208). However, this is far from the truth, the kind of work women take on for approximately eight hours a day is not only physically straining their bodies but takes an immense mental toll. Further, women are first seen as family members and oversee maintaining the household. This double burden of domestic household labour furthers their workday by approximately two to

four hours and these responsibilities are unpaid. To a certain degree, women have also internalised the notion that their work and income are less important than that of their male counterparts (Kakad, 2007). Hence why earning an income external to these responsibilities is somewhat seen as a 'privilege'. Men's work provides for the family and women's work is secondary income and hence why men are entitled to better wages (Kakad, 2007, p. 216). However, what this way of thinking assumes is that all women are the same. All of them belong to families and have husbands that supposedly look after and provide for them and their children. However, a study cited by Devi and Kiran (2013), found that 46% of the women they interviewed had no other option but to work in the construction sector. Most women are either widows or abandoned by their husbands, so to meet their daily needs and in some cases, the needs of their children their income is primal to survival. Hence why grouping all types of women into one category is harmful to their survival and furthers the gender roles of women and men.

Developing the findings of Devi and Kiran (2013), there is a lack of consistency in the absorption of labour within the construction force and it is more apparent for women than it is for men (p. 28). When there is a high demand for construction work due to a spike in economic and infrastructural growth, women are employed at much higher rates to keep up with the development of society. Yet, when there is a shrinkage in the workforce and less labour is required, then women are the first to lose their jobs, this is the so-called concept of 'the reserve army of labour'. Despite these harsh barriers to entry, many women are still present in this sector due to their dire circumstances. This dominant male makeup of the industry is not only toxic to their well-being but fuels the notion of women becoming a wasted resource (Patel and Pitroda, 2016). In addition to this, women face the burden of unpaid household labour. Due to the patriarchal society that exists in the Indian context, rigid boundaries exist for women, where they are seen as the primary caregiver of the family. This division of labour is so present in Indian society that it creates barriers to opportunities for most women. In the rare case of a woman becoming skilled, or knowing her rights what will men do? This fear exists among many, the restricting barrier of gender roles makes such industries a socially unsuitable place for women to be active (Kakad, 2007, p. 223).

Although there have been efforts to combat this division of labour and bring equality through legislation, it has to some degree created more of a problem. Capital prefers that women remain cheap and flexible in the labour they sell to the market (Hensman, 2011a). In the past when legislative reforms have aimed at protecting women in the workplace, they have often worsened the situation for them. For example, in a male-dominated industry like construction, women are needed for the jobs the men do not want to take on. 'Simple' jobs such as mixing cement, carrying bricks, assisting brick masons and so on. They are seen as simple, as they require no form of training however, they are far from simple on women's bodies and minds. Now if women start to earn welfare benefits such as maternity leaves and childcare, they start to become expensive in the eyes of the employer. Further, if women earn the right to refuse overtime work due to domestic responsibilities or are not allowed to work at night-time due to increased cases of sexual harassment, women then become less flexible (Hensman, 2011c). If women become more expensive and less flexible, contractors are less likely to bring them on

board, they would rather employ low-skilled men or women who do not require such benefits to save on costs. However, what this kind of protective legislation assumes is that all types of women are the same, they are dependent on the man of the family, and bear the burden of ensuring household responsibilities are fulfilled. What about single women, or widowed/divorced women? What becomes of them in the industry, if employers start replacing and eliminating women from the sector?

Gender Roles, Divisions of Labour and Unpaid Household Responsibilities

What women do and how women are treated in the sector have been brought up in the section above. The following sections will aim to theorise the notion of gender divisions of labour and the unorganised sector in order to better conceptualise the research aim.

A quote by Hensman (2011c) is a great place to start in order to grasp the nature of gender divisions of labour - “A domestic worker cooking for an employer's household is waged vs a housewife doing the same work in her own home in unwaged” (p. 210). The difference between paid and unpaid labour is an essential one, and women are inclined to bear the burden of unpaid household labour due to the gender roles that are assigned to them. Women are first and foremost considered to be members of the family. Hence why they are the first to bear the burden of domestic household labour. Unpaid labour is defined as follows “Unpaid household labour has three components: (i) household maintenance including cooking and cleaning; (ii) care of persons living in the house such as children and elderly [...]; voluntary services or services rendered free to other households or the community” (Singh & Pattanaik, 2020, p. 4). These are often understood to be simply women's responsibility and hence why it often goes unrecognised and remains invisible in national statistics, as it does not include any formal/legal type of monetary transaction (Ghosh, 2021). If national consensus was to include this type of work as ‘work’, women on average would be working much more than men. It's unfortunate such work goes uncelebrated as the unpaid work women provide is crucial to the functions of the economy and fosters overall stability for the labour supply (Mitra, 2019).

The socio-cultural norms present in India regulate women's decisions in taking part in the labour market (IWWAGE, 2021). Conservative social norms associate household responsibilities to be the duty of women. This notion coupled with low levels of education limits the capabilities of women to enter the labour market. This is worse for poorer households, where they do not have the capacity to sacrifice an income, so women then have a double burden to bear (IWWAGE, 2021). According to reports, women are less likely to be in the labour force if they have young children, however, this is untrue for the construction sector. As it mostly employs low-income women, many of them bring their children to the work site as they have no other choice. Contrastingly, men's participation in the workforce was higher if they have young children at home, due to the norm that men are the primary breadwinners of the family. Further, a study conducted by the International Labour Organisation concluded that “women cite unpaid care work as the principal reason for being out of the labour force, while men cite educational engagement, ill health and disability” (International Labour Organisation, 2018, as cited in IWWAGE, 2021). In a patriarchal society like India, women do not choose to

perform unpaid labour, they are obliged to under the societal and cultural norms present in their environments (IWWAGE, 2021).

Additionally, if women were allowed to work ‘formally’, by this I mean to receive a monetary reward for their time and work, it was understood to be merely a supplementary capacity. Women’s incomes were not seen to be essential to the family, as on average men have more individuals dependent on their incomes (Hensman, 2011c). Hence it was justified to pay women less and provide them with fewer welfare benefits. As observed by Engels, when women are employed in time-consuming jobs and absent from family responsibilities, the family feels the impact much harder than if men were occupied in time-consuming jobs (Engels, 1839, as cited in Hensman, 2011a). Society has moulded itself in a way where rigid boundaries exist, men are the breadwinners and women are the caretakers of the family. This division of labour is so prominent and persistent in our society that it affects the opportunities women can have.

With this said, I turn to the specific gender divisions of labour present in the construction industry of India. Women are almost always stuck within unskilled labour, they are almost never given the opportunity to better their skills and gain higher-paying jobs that are less straining on the body (Kakad, 2007). Sometimes, women are paid less for doing the same job as men. This ties back to how their incomes are seen as supplementary to that of their male counterparts. Even if they do have the skills, they are not preferred by the employer due to the mandatory legislative benefits they must provide to the women. Additionally, at the worksite, women have no access to separate wash facilities and can face lots of harassment because of it (Kakad, 2007). They also rarely have access to maternity leave or childcare benefits. Making their existence in the industry a difficult one.

To clarify, the elements that will play a key role in supporting my analysis are as follows. The gender divisions of labour theory assist’ in understanding the level of discrimination that is faced by women in the industry. Due to the stereotypes and roles that exist in society, women are almost always constrained to unskilled, low-paying work. This is consistent with the theory of unpaid household labour, as together they fuel the stigmatisation that women feel in the industry.

Informal - Unorganised sector of India

The informal sector in India is commonly referred to as the unorganised sector, and ironically, for some specific professions, it is still quite well organised in the way it functions. For this study these two terms will be used interchangeably and following the conceptualisation proposed by Hensman (2011b) I will use three terms; *informal sector*, *informal worker* and *informal labour/employer*. The informal sector refers to a sector that has both informal workers and informal labour/employers operating under unregistered organisations. This however is not completely true in my case and as under the BOCW Act, establishments having more than ten workers must be registered to claim benefits. Hence why my understanding of the term will also include registered establishments under the act. The MOL defines an informal worker as

follows “a home-based worker, self-employed worker or a wage worker in the unorganised sector” (Ministry of Labour and Employment, 2021, p. 98). Another few key identifiers are the excessive cycles of seasonality informal workers operate under, the lack of adequate social security measures and the lack of a formal employer-employee relationship (Ministry of Labour and Employment, 2021, p. 98). Finally, informal labour/employer refers to unregistered employers in the sector, and specifically to construction, contract labour is another key component. Contract labour is when a contractor is ordered by the primary employer to recruit a group of people and have them work for whatever period of time is mandated by the primary employer. The primary employer pays a lump sum to the contractor, who is then in charge of distributing wages to workers accordingly (Hensman, 2011b, p. 166). This is the most common way workers are recruited into construction work and the key reason why this sector remains to be informal. Contractors play a big role in furthering the exploitation of workers by giving them no income security and decent working conditions, with no fixed contracts supporting workers they are left extremely vulnerable.

However, as stated above, the unorganised construction sector of India is to some degree organised. For example, workers assemble at ‘labour chowks/Kadiyanakas’, every morning workers gather here to be picked by contractors for work for whatever period of time is proposed by them. This structure is found across all states and is the most common way workers find jobs, showcasing the organised nature of the sector. Further, the BOCW Act is another factor bringing an organised structure to the industry. It allows for workers to be registered and aims to hold employers accountable for making sure welfare and social security are provided to the worker. Yet the overall nature of the industry still remains to be informal because of the implementation issues and corruption that is fuelled by certain selfish actors.

Now that these terms are defined and clearer for my study, I will delve deeper into the position of women within the Indian informal sector. In India, there is a slightly higher percentage of women workers that are employed informally as compared to men (IWWAGE, 2021). However, as seen in figure 1 below, this statement does not fit with the numbers showcased. This is because much of women’s work goes unrecognized and remains invisible to statistics, making it near to impossible to track. A majority of their work is invisible as they are hired under low-skilled and low-paid jobs that offer no form of social security (IWWAGE, 2021). Further, there is an immense difference in the levels of marginalisation these women feel based on their social backgrounds. Women from lower castes and marginalised religions tend to bear the brunt of the discrimination that occurs towards women. This is worse when women exist in primarily male-dominated industries such as construction, where their space and worth are constantly under attack from employers and their male counterparts.

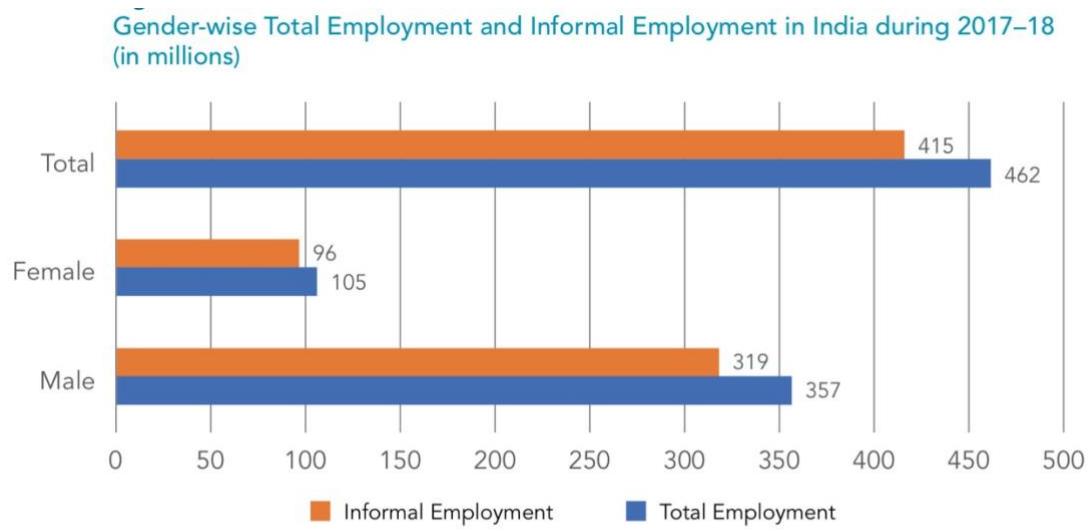


Figure 2: Gender Division of Labour in India. Extracted from IWWAGE Report, 2021

The above graph, Figure 2, is taken from the IWWAGE Report on ‘Women in the Indian Informal Economy’ (2021), and it showcases the gender division of labour across the informal and formal sectors. What this graph confirms is that the Indian informal sector is much larger than the formal one, with approximately 90% of all workers employed in the informal sector (IWWAGE, 2021). Further, this also showcases why the Indian economy has been growing at such high rates even when it has such poor employment generation. The informal sector of India brings income to so many individuals often who are denied entry to the formal sector due to their lack of education. The gender dimension of informality is closely related to poverty, on average, women informal workers tend to be poorer compared to men workers. This is because of the gendered difference in wages, where women receive significantly less than their male counterparts. This is even worse in women-dominated sectors, where on average pay in these sectors is much lower than that of male-dominated sectors (IWWAGE, 2021). This could be a potential reason why so many women remain in the construction sector despite the wage and social discrimination they face. Unfortunately, most women do not have any other choice but to take on unfair jobs. Despite, the everyday discrimination, and no social or job security they incur, they enter informal employment not by choice but rather on the basis of survival and desperation.

The Existence of Legislation and the Importance of Trade Unions

There are two key pieces of legislation present that cover the welfare of construction workers, specifically those that are manual labourers and exist in the unorganized sector. These are ‘The Building and Other Construction Workers (Regulation and Employment Conditions of Services) Act of 1996’ (BOCW Act) and ‘The Building and Other Construction Workers CESS Act of 1996’ (BOCW CESS). This piece of legislation applies to all building and other construction workers and applies to all employers that hire ten or more workers, covering all central and state government employers (Dogra et. al, 2014, p. 3). It came into passing after twelve hard years of campaigning from the National Campaign Committee for Central

Legislation on Construction Labour (NCC-CL). (Dogra, et. al, 2014, p. 3). However, the state of implementation of these two acts is highly inadequate and there is a lack of priority in satisfactorily implementing this act at the national level. As stated by Dogra (2010) “If it had been implemented correctly from the beginning, billions of Rupees would have been available for the welfare of workers” (p.4).

For example, as stated by Dogra (2010), in many states including New Delhi, the management of CESS is incredibly lacking. Despite large amounts being collected a very small proportion of this makes it to benefit the welfare of construction workers (Dogra 2010). Whereas, not perfect, the welfare board of Tamil Nadu had a “glowing performance” (Dogra, 2010, p. 28) in the collection and fair distribution of CESS for the registered workers in the state. The registration of workers is another issue, it is slow and a long process that is tedious, further there are problems with sanitary and health-related facilities at the work site. The list goes on, but what can be done to mitigate such issues?

In order to best understand the role and purpose of trade unions, I will bring in elements of organisational theory. The term organising describes the way in which workers are managed by in this case, unions, with an emphasis on membership activism around workplace issues (Simms and Holgate, 2008, as cited in Molina and Guardiancich, 2018). As stated by Molina and Guardiancich (2018) “organising encompasses all those actions developed by trade unions aimed at recruiting, involving and or mobilising workers” (p. 13). In contrast to the servicing model of unionism which focuses more on the top-down approach of organising, where unions provide services to their members. The organising model instead looks to empower their members, and such a model is more common within informal sectors. Union organising in the informal sector focuses more on gaining social security and welfare benefits from the state rather than fighting for higher wages or better working environments from the employer (Chattaraj, 2016). The accountability of organising however, must fall on the unions as informal workers specifically women, are most often uneducated and do not have the right resources to organise themselves. Hence, the organising model aims to empower vulnerable groups by providing them the resources to thrive in the labour market. For example, one of the initiatives of the Self-Employed Women’s Association (SEWA) cooperative federation is to “Train women in management skills like accounting, auditing, marketing, planning techniques, etc.” to sustain the cooperative themselves rather than managing it for them (SEWA, 2022).

With this said, the need to define what is a trade union will be useful in understanding its purpose in this study. Their main power is their ability to collectively bargain, and as stated by Hensman (2011a) “the only social power of the workmen is their number” (p.87). Collective bargaining entails discussion and negotiation between a representative of workers and the employer regarding terms of employment, wages issues or any other matter at hand, or in this case with the state (Nishith Desai Associates, 2019, p. 4). Fostering this kind of environment is key to the growth of the economy of the developing world, making it possible for workers to gain a more equitable share of the wealth they create for the country (Sharma, 2022).

Of the several theories of trade unions, two I find interesting and central to understanding the unions that will be later discussed in this paper are the notion of ‘social-movement unionism’ and ‘social partner unionism’. A style of unionizing that is often characterized in the developing world, entails unions relying on social mobilisation to apply pressure to the state (Hensman, 2011a, p. 90). Campaigning and protesting for a social right, applies pressure on the government to pass certain bills and legislation. As mentioned in the earlier sections of this paper, it was the NCC-CL that created and campaigned for the BOCW Act to pass in parliament. A collective of employers, workers, trade unions and the judiciary put together the act after intense campaigning in the country over a span of 2-3 years. Hence showcasing, how construction sector unionism began, through a movement fighting for better rights of daily manual labourers. It can be taken a step further, and SEWAs involvement can be classified as a movement, focusing specifically on the involvement and welfare of women workers across the unorganized sector. With this, the unions also want to be represented at the top, hence why they sometimes find themselves partnering with the government to hold positions on tripartite bodies that look after welfare issues of certain labour groups (Hensman, 2011a, p. 90). The notion of social partners refers to “the institutional representatives of workers on the one side and employers on the other side” (Meil et. al, 2009). To engage in dialogue to negotiate and discuss one another's interests. Specifically, social partner unionism aims to further union representation from traditional channels. Rather than just representing the workers at a macro level, social partners can engage with one another in tripartite agreements in turn influencing national politics (Meil et. al, 2009). This is visible in the case of SEWA, and something that will be further discussed in the analysis section of this research paper. There are some individuals within the network of SEWA that actively partake in the tripartite welfare boards as mandated by the BOCW Act. The welfare board is a self-sustaining board ensuring representatives of both workers and employers are present to guarantee coordination. This is one-way unions can have power and control at the top to ensure the worker's needs and social welfare are met.

To Unionise or not to unionise?

Trade unions take on the role of being a voice for workers within vulnerable sectors. Unionisation increases the power of collective bargaining as well as being a platform to provide training and skill upgradation programmes (Kakad, 2007). However, in this section, I want to highlight the literature present that debates the pros and cons of unionisation. Particularly how unions can be the gateway to battling inequality for women workers in the construction sector. SEWA is undoubtedly the largest women's union in India, one that is recognized by the CTUO and essentially the only one that has no political affiliations (Nishith Desai Associates, 2019).

It is important to note that these recognized unions are incredibly big, having more than a hundred thousand members, and often being associated with political parties. These types of unions are plagued with corruption and directly collaborate with politicians and their respective parties. However, the trade unions I plan to study in this research paper are much smaller (apart from SEWA, but as they are not aligned to any political party they practice more bottom-up approaches). The unions I will cover in this paper, are more grassroots and specific to the

sectors their members arise from. Namely, these are SEWA, Nirmana and Building and Wood Workers International (BWI), the details on how these unions came into my research and how I approached them will be further discussed in the methodology. These types of unions are extremely needs-based, operate regionally, and focus significantly on the welfare and rights of workers. In comparison to the twelve recognized unions, they are much less corrupt and function on a smaller scale. In some ways, these alternative unions can be understood as organizations, being the voices of the unheard.

If we bring it back to the core focus of this paper, women workers, unionisation through grassroots initiatives can be extremely beneficial for their social welfare. Baruah (2010) expresses that unions such as SEWA, and initiatives such as the Mahila Housing Trust (MHT), are key for policy support at the national and state level (p. 42). For example, surveys on women workers have shown, that “gendered discrimination practices and gender-based wage differences cannot be overcome by simply educating and training women” (Baruah, 2010, p. 43). Unions are essential here as they can be the actors helping and guiding women in finding employment opportunities. While simultaneously lobbying for their needs at the national level to ensure it is enshrined into the system. As seen by the formation of the NCC-CL, a collective of trade unions and activists etc lobbying at the national level to implement policy surrounding social security benefits (Self Employed Women's Association, 2022).

Further, the way trade unions organize workers as a whole brings more of an organized structure to the informal nature of the industry. For example, even though construction workers are classified to be part of the informal sector, they gather at *labour chowks/Kadiyanakas* which essentially translates to ‘labour meeting points’. Here they are picked by contractors for work and the conditions of work and terms of payments etc are expressed by employers. This kind of organization is unique to the construction sector and is practised across all states. As development projects rise within cities, these labour corners adapt to the hotspots. Trade unions can use this to their advantage, SEWA often sends union workers to these points where they pitch SEWA and the benefits of unionisation to the women. Sometimes, they hold meetings once the contractors have left and hand out leaflets on how women can become members of SEWA, furthering the organisation of this sector (Self-Employed Women's Association, 2022). As well as that, unions such as SEWA played a key role in supporting the lobbying of the NCC-CL. They believed that once the BOCW Act passes, much better welfare opportunities would be available to workers. This shift towards protective legislation for these workers, led to a new wave of organizing, looking more into how ‘well’ these workers can be organized and how to create a better working environment. If not for the progressive push and collective bargaining of these unions, acquiring welfare and social rights would have been impossible.

Nonetheless, there are certain limitations to the reach and power of unions, even the smaller ones that do more ‘good’. Legislation that has a protective nature towards workers can be harmful to the industry. Especially for women workers, it can be more harmful as from the employer's perspective, women's labour is seen as cheap. The moment protective legislation exists, they are less preferred to their male counterparts, harming their overall position in the industry (Hensman, 2011a). For example, maternity benefits and the need to have creches

present at the site are perceived as an extra burden for employers. Women become more expensive for the employer, and it is no longer favourable to hire them. Bargaining against this is difficult from the union's perspective, changing the mindset is something that is out of their control. Another example, closer to the construction industry, "section 27 laid down restrictions on the employment of women. It stipulated as the Factories Act does, that women in construction would not be allowed to work after 7 pm" (Kaveri, 1995, p. 88). Women felt that this would deprive them of employment opportunities, and they would be further marginalized than they already were. This is a concern many women workers and unions put forth, to them it felt "diversionary and patronizing" (Kaveri., 1995, p. 88). This showcases that the power of unions can only go so far in creating an organized structure for the informal sector. They can lobby and protest the state and national governments, but ultimately the power lies within them.

A little bit on Cooperatives

The formations of cooperatives were at a high in the early post-independence era, where it became an integral part of the five-year development plan (ClearIAS, 2022). In the 1960s, India saw a great deal of cooperatives present in the economy and to monitor cooperative formation, the National Cooperative Development Corporation was set up under the National Cooperative Development Act of 1962 (ClearIAS, 2022). These differ slightly from trade unions, as most often cooperatives have little to no power for collective bargaining with the state or employers. In fact, most often cooperatives do not tend to have an employer and work on self-employed terms. Cooperatives operate in "democratic, membership-based and member-driven organizations and enterprises" (International Labour Organisation, 2018). They are autonomous organizations that are united primarily for the gain of their members and can be extremely beneficial for vulnerable women groups. For example, a group of trained brick masons offer their skills as a service to the construction industry. They sell their skill as a collective to relevant contractors and share the profits equally among participating members. This way, vulnerable women groups can advocate and find work much easier than they would have if they were by themselves.

However, over time cooperatives can find themselves in difficult positions in the existing capitalistic society that exists in the world, hence why they have lost some relevance in the political field. A group of vulnerable uneducated individuals offering a service or product cannot compete with the fast-paced industrialization of the capitalistic world (Hensman, 2011a). In this sense, trade unions can be an essential lifeline to such cooperatives. Many scholars express that cooperatives are a waste of time for unions, but many cooperatives are quite insistent on having trade union membership (Hensman, 2011a, p. 93). Combining both can cause conflict but when cooperatives are formed out of unions, it can change the dynamic. Conceptualising cooperatives will be required for this study, as they are frequently found within professions that exist in the informal realm. Especially for women, this is a way of ensuring safety in their work, and co-dependently working with each other to create employment opportunities. One of the unions I spoke with will fall under this category. SEWA federation of cooperatives is a prime example of how trade unions can act as a lifeline to

cooperatives. Most often why cooperatives fail, is because they do not have the resources and management knowledge to sustain themselves for the long term. Under the SEWA federation, cooperatives have the chance to use the wider unions network and knowledge, hence why cooperatives need unions and not necessarily the other way around (Hensman, 2011a). However, in this case, supporting the formation of cooperatives aligns well with the values and missions of SEWA, proving that they are not always a waste of time.

Research Questions

The key concepts, theories, and debates on the construction sector of India have been determined for this research paper, leading me to the central research question at hand.

The main research question for this paper is as follows:

What has been the contribution of trade unions for the welfare of women construction workers in accordance with the Building and Other Construction Workers Act of 1996, in India?

The sub-questions that will support the main question are as follows:

1. What is the status and role of women construction workers in Northern, India?
2. What is the impact of the Building and Other Construction Workers Act of 1996 (BOCW) on the construction workers of Northern, India?
3. What are the initiatives established by trade unions that address the welfare of women workers in accordance/complementary to the BOCW Act of 1996?

These sub-questions will play a key role when it comes to analysing my data. They will provide a concrete guideline on how to break down my data into three coherent categories, to answer the main research question at hand.

Chapter 3 - Methodology

The following chapter will cover the methodological considerations taken into account at the time of designing my research paper. Followed by how these changed during the fieldwork and why, finally concluding with what came out of my fieldwork and steps forward.

The relevance for the field:

As revealed above the main research question has significance in the field of development studies, relating to issues of gender and labour in the field of construction in developing nations. It is researchable, which means it can be answered by conducting research in the field (Halperin and Heath, 2017, p. 146). Finally, it has “not yet been answered definitively”, in other words, it proposes a research gap for the relevant field (Halperin and Heath, 2017, p. 146). I believe such research is relevant for the field of development studies as it provides insights into how gender plays a role in labour specifically in developing nations. In a country like India, where gender roles are so concrete and burdensome on women and where there is an excess supply of human labour present. It is essential to understand the relationship between the two. Most often women are seen as cheap forms of labour and are hired when economies are in boom and are the first to be eliminated when capital is low. Not only does this further the gender stereotyping of women, but it also allows for women to become a wasted resource. Additionally, India puts forth a ‘special’ case for women construction workers, as it’s a global anomaly. The number of women in construction in India alone is not seen anywhere else in the world. Why is it that there are so many women present in a male-dominated industry? In broader terms, I think researching the role of policy and the role of trade unions within such sectors can help create better scenarios for the poor and vulnerable. It can then be further applied to the informal (unorganized) sector, especially in many other developing nations where women are marginalized.

Once the basics of the research have been determined, i.e., the research questions, why it is relevant for the field, and the ethical considerations and restrictions present. The particularities on how to go about researching the topic and the methods I can use to obtain the answers I predict can be decided.

A Shift in Focus - Being transparent

Contrary to Halperin and Heath, (2017), some of the boundaries of my study (discussed below) changed during the fieldwork. Initially, I wanted to focus greater detail on the women workers and their well-being. Through interviewing them directly, I wanted to know who they were, why they chose construction, the challenges and struggles they face on a daily basis and if they were aware of the rights entitled to them. However, this proved to be extremely difficult to organize when it came to scheduling my interviews. I had assumed that speaking with construction women workers would be much easier to get a hold of and had an ideal scenario

in my head that consisted of a small group discussion/interview. This was quickly challenged as reaching out to union workers itself was a hassle and took lots of back and forth. Further, when it came to me asking them to possibly set up an interview with a women worker, they became incredibly protective. This was of course understandable, union workers feel a powerful need to protect these women, and a foreign student intervening may not be ideal. Nonetheless, this entailed me changing my focus slightly, hence, why I decided to focus solely on trade unions and their workers. Although this was still difficult, in terms of having a good number of interviews across a minimum of three unions to offer diversity. I emailed and reached out to many people working in that sector over several platforms, and at the end managed to complete eight in-depth interviews. With this, my research questions changed, and the focus of the paper was shifted but the overall topic of the paper remained relatively similar. It was clear to me in the preparations phase, considering the time period I was operating in, what I was initially aiming for might have been a little too ambitious. Taking a step back and working with what/who I could get a hold of, helped me arrive at the current focus.

Restrictions to conducting research in India

The section above addresses how my focus shifted to solely concentrating on trade unions and their role in the welfare of women workers. The following section will address the restrictions I faced during my fieldwork phase and situate my positionality.

Once I started the process of reaching out to individuals in the field, it was much harder than expected. Union workers were incredibly protective of the women part of their networks for obvious reasons. An already vulnerable group did not need a researcher from a foreign university asking questions when it brings no direct benefit to them. Due to this, I faced many restrictions to my research, and I will deconstruct them by introducing the idea of reflexivity and the insider-outsider positionality. Reflexivity involves the level of awareness a researcher has toward the cultural context of the research domain (Bukamal, 2022). Within all types of research, specifically qualitative, the researcher is assumed to have a position on what is that they are researching. The background of the researcher plays a central role in determining this position, essentially giving the researcher an identity that will affect how the data is interpreted (Bukamal, 2022, p. 328). The ‘insider-outsider ambivalence’ as coined by Bukamal (2022), showcases the idea of the researcher being familiar with two different social contexts, they use the term ambivalence as it “express[es] the juxtaposition of the feelings for both insider and outsider positionality and the experiences associated with that in each country (p. 328). I fall within this conceptualisation, as although my nationality and ethnicity are Indian, I grew up for most of my conscious life in the Netherlands (The West).

Although I am very familiar with the Indian culture and religion and come from a family that practices it regularly, my mindset and the way I understand the social world is one that was produced in The West. Further, I come from the South of India and only speak my mother tongue Telegu from the state of Telangana. Since I decided to conduct research in the North of India due to accessibility reasons, it is a region that predominantly speaks Hindi. This language

barrier created my first major restriction in the space of women construction workers and made me an ‘outsider’. I was an ‘insider’ in the way I understood the socio-cultural functions of the country and in the West would be seen first as an Indian woman. However, in India, due to the language barrier and the way I speak and dress I was seen as a ‘foreigner’. Many individuals I interviewed were first stunned by me being Indian with a ‘different’ accent conducting research for a foreign institution. This was the first and more stringent barrier I faced. It felt that every time I tried to speak about my research, many people questioned my credibility and purpose. This obviously creates protectiveness from union workers towards construction workers, and questions my credibility and purpose of research. Insider-outsider positionalities are everchanging and are different to every context and change according to the people the researcher interacts with (Bukamal, 2022, p. 333). During the field research, I did find myself trying to be perceived more as an ‘insider’ afraid that if I did not, I would not get any interviews at all. I found myself carefully picking out what I wore, wearing everyday clothing women would wear in India and slightly changing my accent to sound more comprehensible. As one of the common comments I heard was about my accent sounding like it came from outside of India. Although reflecting on these things now makes me slightly uncomfortable, I knew in the field it would help my position.

I soon realized, that focusing on the stories and experiences of women construction workers may be a bit ambitious for the time period I had. Hence, why the focus shifted to just union workers. This was also quite the struggle to schedule, in the beginning, I emailed many unions and got very few responses. Although I am an ‘insider’ to the socio-cultural context of the country, my networks were quite restricted as I grew up outside of India, making me an ‘outsider’ in this scenario. Through the limited friends and family members that would possibly know someone in the development sector, I managed to get hold of a few key individuals. Saba, Subhash and Rajeev were key influences in my interview scheduling. Further, the second I met with Subhash in New Delhi, it became my ‘in’ to the community of union workers, and things started to fall in place. As Subhash, held quite an influential position in the community, having him back me up also created some credibility. Earning credibility among the research participants is essential, not only for getting honest answers but also to acquire more participants to increase the sample size (Bukamal, 2022). The latter was significant in my case, through Subhash, I was introduced to many relevant actors that were more willing to speak with me due to Subhash introducing me. In the end, after months of back and forth, I ended up with eight solid in-depth interviews and considering the circumstances I faced, I felt this was a great achievement!

Methods of Data Collection

As stated by Halperin and Heath (2017) “data collection involves setting the boundaries for the study and collecting information through observations, interviews, documents, visual materials etc” (p. 158). These boundaries are set before entering the field of research and normally should not be changed during data collection. The focus of the research can slightly change depending on the circumstances of the research, as happened in my case. The key components such as the temporal domain, spatial domain, and actors/units relevant should remain concrete

throughout. Halperin and Heath (2017), mention that the “variables or factors you think are important for arriving at an answer to your research question” should be set in stone in advance of fieldwork. However, this was not the case for my research and being transparent about it is essential.

The following table showcases the logistics of my research, important for fieldwork.

Boundaries of the study	Research Design
Temporal Domain (time frame)	<p>1996-2019</p> <p>The BOCW Act of 1996, became the benchmark of my research. Data on the brief history of this act was included as background context but everything following the role of trade unions and their impact on women workers was collected post-1996 till 2019. I say 2019 specifically, as I wanted to ignore the impact of COVID-19 from my research paper. I felt that if I included too much data on the effects of the pandemic on the workers, it would become a totally different paper in itself. Without ignoring the fact that the pandemic was tremendously burdensome on the unorganized sector, I did not want to steer the unions to primarily focus on telling me about their pandemic relief strategies. Rather I wanted to hear about how unions have been working in favour of construction workers since the inception of the Act.</p>
Spatial Domain (place)	<p>North India - specifically New Delhi and Ahmedabad.</p> <p>It is not a secret that India is one of the world's biggest countries in terms of population and diversity. With this in mind, it was obvious from the start that I could not focus on the entirety of India and needed a much narrower focus. From my preliminary research, it became evident that trade union activity in the north of India, was at higher numbers and there was better access to their resources. Initially, I had set the focus on just New Delhi, as it was the capital and where most of the attention is. But then eventually changed to focus to northern India, as Ahmedabad was a city that was constantly brought up in my data collection and research phase as its the home city of SEWA.</p>
Actors of relevance	<p>Trade Unions and to a certain degree the Central Government of India.</p> <p>Three unions were central to the core of the research.</p> <ol style="list-style-type: none"> 1. Self-Employed Women's Association - SEWA

1. One of the largest central trade unions created in April of 1972, has a membership of over 1.5 million self-employed women workers across 18 states of India. (SEWA, 2022). Founded on Gandhian principles, SEWA has been a pillar for vulnerable groups of women, particularly in the informal economy. They organize women for collective strength, to tackle employment/welfare issues and increase self-reliance among the women themselves (SEWA, 2022)
2. Within the SEWA family of networks, I also wanted to hear insights from SEWA Cooperative Federation and Mahila Housing Trust.
 1. Cooperative Federation → In 1992, the first recognized cooperative federation was established to govern and manage the cooperatives that were forming through SEWA members. *Shree Rachita Bandhkam Mahila SEWA Sahakari Mandli* Ltd is a cooperative aimed at helping women whose construction is their primary service. Helping them balance work life and domestic responsibilities.
 2. Mahila Housing Trust → Set up by SEWA but operates fully as an autonomous body, came into existence in 1994 (Mahila Housing Trust, 2022). They mobilize women to ensure their voices are heard and equip them with the skills to exercise their civic rights as well as thrive in their working environments. The Karmika Programme for construction workers offers women a 3–9-month course in skilled construction work. Covering trades such as masonry, tiling, plastering etc, to better their employment circumstances.
2. Building and Wood Workers International - BWI
 1. A “Global Union Federation grouping free and democratic unions with members in the Building, Building Materials, Wood, Forestry and Allied sectors” (BWI, 2022). BWI is headquartered in Geneva but as a global union has a South Asia head office in New Delhi India. They operate across India, Pakistan, Nepal etc, but their focus in India lies in creating coordination between

	<p>the existing local trade unions and helping them where needed.</p> <p>3. Nirmana</p> <ol style="list-style-type: none"> Established in 1988, their work began by providing logistical support to the National Campaign of Construction Workers, a group lobbying for the rights of construction workers and creating/writing the Building and Other Construction Workers Act of 1996. Now they have expanded to working with other professions under the unorganised sector of India and aim to “address advocacy for social security and livelihoods” of workers (Nirmana, 2022) <p>The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.</p>
Variables or factors that are key for arriving at the conclusion.	<p>The sub-questions that accompany my main research question becomes essential here.</p> <p>First, it is essential to have a good understanding of who these women are and the kinds of daily activities they take on. Followed by a concrete overview of the BOCW Act of 1996, and which elements of this legislation are central to understanding trade union participation as well as women workers. Lastly, keeping the Act in mind, trade union participation is the crux of my research paper. In what ways do trade unions complement the legislation and what initiatives do they produce the gaps the act creates and provide welfare for workers</p>

Table 1: Boundaries of Study - Research Design

Semi-Structured Interviewing - How I Wrote and Conducted my Interviews

I decided to pick a semi-structured style of interviewing to allow for some comparisons between interviewees as well as the freedom to express their thoughts. Initially, I had two interview scripts, one for unions and one for women workers. As mentioned above, this quickly changed, and my focus shifted to solely developing the union worker script (refer to appendix)

Structured interviews consist of an identical set of questions for each participant, asking them the questions in the same way and most often having a set of questions to choose from (Halperin and Heath, 2017, p. 159). Whereas unstructured interviews have no set structure or strict rules for asking questions, they can be seen as a normal conversation where interviewees can answer as they wish (Halperin and Heath, 2017, p. 159). Using a mix of both these styles, semi-structured fit my research as it allowed for me to probe and ask questions on topics, I wanted the participant to freely answer. This style is better suited for when a researcher obtains a small number of interviews, which was relevant in my case as the initial aim was to do ten and, in the end, I had eight. As stated by Halperin and Heath (2017), “the interviewer uses a combination of structured questions to obtain factual information and unstructured questions to probe deeper into people’s experiences” (p.289). This is highly relevant in my case, I had a set of questions that I asked each interviewee to gain factual information on topics such as the daily lives of women workers, the position and role of the interviewees at their respective union, what is the BOCW act and how it works etc. Then by asking more open-ended questions about their perspectives I gained information on their personal experiences regarding the welfare of women workers. These questions were phrased in a way that probed a personal insight rather than an obvious fact. For example, ‘How does the BOCW act affect construction workers? Do you think it applies a gender lens/ address women’s need?’. Such a question cannot obtain the same answer from each interviewee, it allows for more of a personal answer tailored to the work of their union and the experiences they faced in the field. Further, as a researcher, it meant that as participants answered the guiding questions I had, I could constantly bounce off their replies and ask follow-up questions to allow for depth and detail in the data. This added to the ‘unstructured ness’ of the interview and this was great to really obtain detail on niche topics that even I had not anticipated hearing. For example, the sexual harassment policy is not a key focus in this paper, but it does fall under the welfare of women. If one of my interviewees had not brought it up when they were talking about challenges faced by women, I would not have much data on the mitigation policies present in tackling this sensitive subject put forth by various unions.

Processing the Data

In this section, I will briefly cover how I plan on analysing and sorting through my data. To analyse my data, I decided to follow a thematic analysis technique. Once I had finished conducting the interviews, I transcribed and coded my interviews. Thematic analysis entails reading through data, such as interview transcripts, and identifying patterns across them to answer the research question at hand. The codes I created to identify themes within my data are showcased in figure 3.

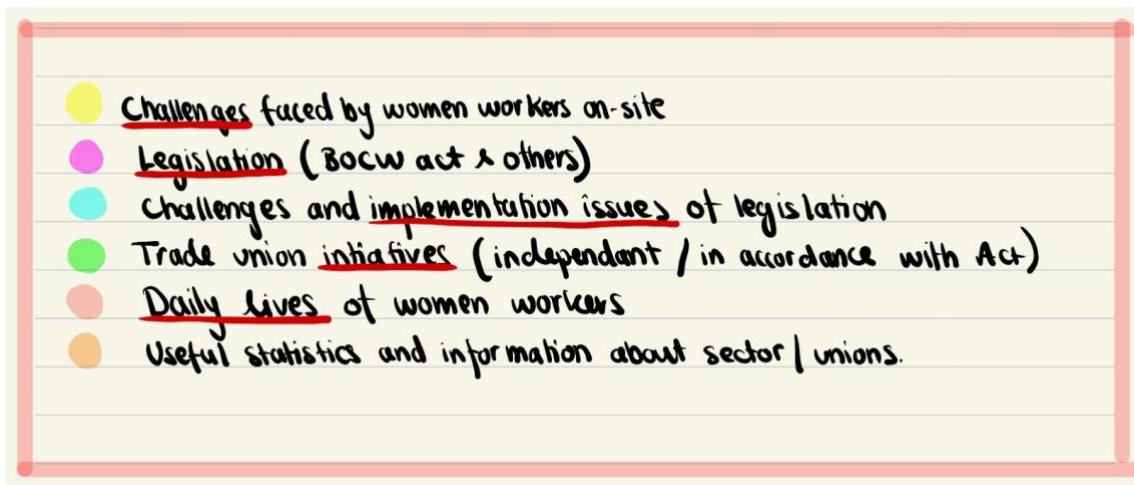


Figure 3: Interview codes/themes

Within the thematic analysis framework, the researcher's experiences and understanding of the text play a central role referred to as 'reflexivity' (Delve, 2020). As the design of this study is qualitative in nature, and I wanted to identify patterns and themes across my data, such a framework is highly suitable. Further, thematic analysis allows for a flexible approach to qualitative research papers. As I see a research gap in the field on the involvement of trade unions for the welfare of women workers. Using such a loose framework allows for flexibility from the researcher to be able to make interpretations from the data (Delve, 2020). However, a major limitation is not having a concrete theoretical framework to guide the analysis. I have tried to balance this by conceptualising trade unions, gender, and the unorganised sector as clearly as possible for generating a strong conclusion to the study. Using my understanding of these concepts and the method of thematic analysis, I have found linkages between theory and data. While also including my own interpretations and perspectives of the study, all to answer the main research question at hand.

Chapter 4 – Contextual Background

A Walk Down the Trade Union Lane

The trade union movement in India began at the end of the first world war and came about due to the need for coordination between groups that wanted the same thing. Over time trade unions became an integral part of all industrial processes in India becoming the voices and advocates of workers. In order to govern the emerging number of unions, the government decided to introduce legislation that would help protect their rights (Nishith Desai Associates, 2019). Hence, The Trade Unions Act (TUA) of 1926 was born, setting forth the rules and regulations for trade union formation and the rights they are entitled to. The TUA of 1926, was a way for the state to communicate and foster a relationship with the emerging power of the unions and provide a clear governance structure.

The growth of trade unions in India was an organic process, starting towards the end of the 19th century and ever evolving to date (ClearIAS Team, 2020). India's Ministry of Labour recognizes twelve Central Trade Union Organizations (CTUO) and most often, many of them have some sort of political affiliation with the existing parties. One of these recognized unions is SEWA, a key trade union in this study. As it is one of the only recognized and registered unions that organises women workers and particularly women within the unorganised sector, it puts forth an interesting case. Unlike many others, it operates independently of any political party and does not favour a particular side. However formally, the CTUO recognizes only twelve trade unions, yet thousands exist in the field, specific to certain sectors. Within these unrecognized trade unions two types exist, registered and unregistered. For obvious reasons, the registered trade unions are eligible and entitled to more rights of collective bargaining power and welfare funding from the state (Vasanth, 2021). Whereas all unregistered trade unions can do is represent their members and have no other rights to claim benefits (Vasant, 2021). The ones picked for this study, as registered but unrecognised unions that work closely with unorganised workers. They are more grassroot and specific to the construction sector and are not associated with any corrupt political parties.

Historically unions were mostly present in the fight for better wages and working environments. However, throughout their years of existence, they have become an essential actor in bringing about welfare benefits to their communities. As development occurs, trade unions adapt to the changing societal landscapes (Hensman, 2011a). At first, unions were more concerned with better wages and working environments, but now a myriad of other concerns fall within their reach. Such as acquiring decent work, health care, education, and welfare benefits etc. This transition towards acquiring more than just the basics showcases that unions are essential and revolutionary actors for vulnerable groups. Further, this type of organizing is significant for the betterment of the unorganized sector, where unions can bring welfare and social security to exploited sectors and create some sort of structure.

Since the late 90s trade union groups consisting mainly of women are on a rise, with the SEWA being the largest group of organised women in India, that has recognition at the national level (Hensman, 2011a). Overall, women account for a very small fraction of trade union membership, and there is a myriad of reasons to this associated with strict gender roles women are confined to in society (Ratnam and Jain, 2022). However, the organising of women in the informal sector is something India pioneered in. Women from the informal sector have found themselves organising in the forms of worker cooperatives, self-help groups, joining SEWA etc, even though it has not been an easy ride. In the 1970s, SEWA faced immense opposition to organizing women specifically in the informal sector (Baruah, 2010). The reasons for this backlash were due to SEWA being unable to identify employers to resist due to the informal nature of the sector (Baruah, 2010). SEWA broke through this backlash by advocating that trade unions serve more than the purpose of resisting employers. Rather that they can also be a unifying platform, for individuals to use, to better their professional skills and gain access to welfare schemes through the resources the union can offer (Baruah, 2010). This was the main turning point for fostering the credibility of trade unions as SEWA could provide for the vulnerable groups of India. Hence, why this union will play a central role in this research paper. Along, with Nirmana and BWI, two of the more grassroots, and sector-specific trade unions fighting for the rights of construction workers across India. In fact, Nirmana played a significant role in the creation and passing of the BOCW Act of 1996 - a central piece of legislation for this sector and one that sets the foundation for this paper. Since their inception, Nirmana has been focused primarily on the governance structures of this sector. Aiming to tackle the obstacles faced at a decision making levels. Whereas, BWI is a global union federation collaborating with local unions in India. With their main mission being the “promoting of development of trade unions in our sectors throughout the world and to promote and enforce workers rights in the context of sustainable development” (BWI, 2022).

The three unions that are the focus of this study are very different to one another, but what they have in common is the dedication of helping vulnerable groups in the informal construction sector, most specifically caring for the welfare of women workers.

A Brief Overview of the BOCW Act of 1996

This sub-section will highlight the story of the act, and how it was led to parliament. It will also provide an overview of the functions of the act and the key elements within it, to better understand the construction sector as well as the opinions of the trade unions. Most of this information is provided by one interviewee - Subhash head of Nirmana. However, I have also used some literature to better support and make the explanation a bit more coherent.

The Building and Other Construction Workers (Regulations of Employment and Conditions of Service) Act, 1996 (BOCW), is an act that regulates the employment conditions of service of construction workers across India and provides for their safety and welfare measures (Commercial Law, 1998). These clauses extend to the entirety of India and its union territories and apply to all establishments of construction that employ/have employed ten or more building

workers in any form of construction work (Commercial Law, 1998). Subhash of Nirmana, along with his colleagues, played a significant role in the creation and campaigning of the Act. They went around the country for 2-3 years campaigning and visiting organisations and worker sites to collect their needs and wants. Unions, Judiciary and Bureaucrats were involved in creating and campaigning for this law, together known as the National Campaign Committee for Central Legislation (NCC-CL).

The act provides three key measures for the regulation of the industry and the welfare of its workers that are especially important to the understanding of this research paper.

1. It sets the conditions of what employers are expected to provide for their workers. This includes “fixing hours for normal working days, weekly paid rest days, wages for overtime, provisions of basic welfare amenities like drinking water, toilets, creches [for young children], first aid and canteens” (Commercial Law, 1998, p. 750). This also includes the need for the employer to provide adequate provisions for safety and health on-site at the workplace. Whether in the form of safety gear or safety training, preventing injuries and accidents on-site is of utmost importance.
2. A key component of the act is the constitution of a welfare board for each state. Their purpose is to provide and maintain adequate social security schemes and welfare measures for the benefit of the construction worker. Some examples of these include providing workers with pension schemes, education/scholarships for their children, maternity benefits etc. However, in order for workers to be eligible for such schemes, they must be registered with the board in the state they work in. Maintaining a registry is also up to the welfare board. The act outlines how the board are chosen, it encourages to have an “equal number of members representing the State Government, the employers and the building workers and at least one member of the Board shall be a woman” (Commercial Law, 1998, p. 754).
3. Finally, this act proposes the welfare of workers through the collection of CESS. Known also as a tax or a levy, employers are obliged if they are registered establishments to levy a certain percentage of CESS to the welfare board for every new project, they partake in. This then becomes the fund used for the welfare provisions for construction workers. At the moment 1% of CESS is recommended to be deposited from an employer to the welfare board at the beginning of the construction work. For example, if a project costs 10 million INR to construct, a CESS of 100,000 INR is expected to be given to the welfare board. The beauty of this mechanism is that it is a self-generating fund for the welfare board, ensuring a consistent flow of capital to maintain the welfare of workers.

Apart from the above three components that are most key to this research paper, the rest of the legislation goes into detail about:

- There is a need for the constitution of ‘Advisory Committees and Expert Committees’, to monitor and ensure the provisions of the acts are being followed by the welfare board and state governments.
- The registration process for employers. Each employer, hiring more than 10 workers, must register itself with the state government as an ‘establishment’.

- The registration of workers as beneficiaries. Briefly mentioned in bullet two, in order to be eligible for welfare schemes, workers must register with the state governments, and obtain an identity card (renewed every year).
- The rest of the chapters (ones a little less relevant to my study) outline the appointment of inspecting staff, special provisions regarding the responsibility of employers, penalties, and procedures in case of misconduct etc.

This section has merely just highlighted what the act is and how it is meant to function. A discussion on the opinions of trade unions towards the act and its implementation issues will be touched upon in the coming chapters.

Chapter 5 - Interview outcomes – Presentation of Field Work

Who are the construction women workers of India?

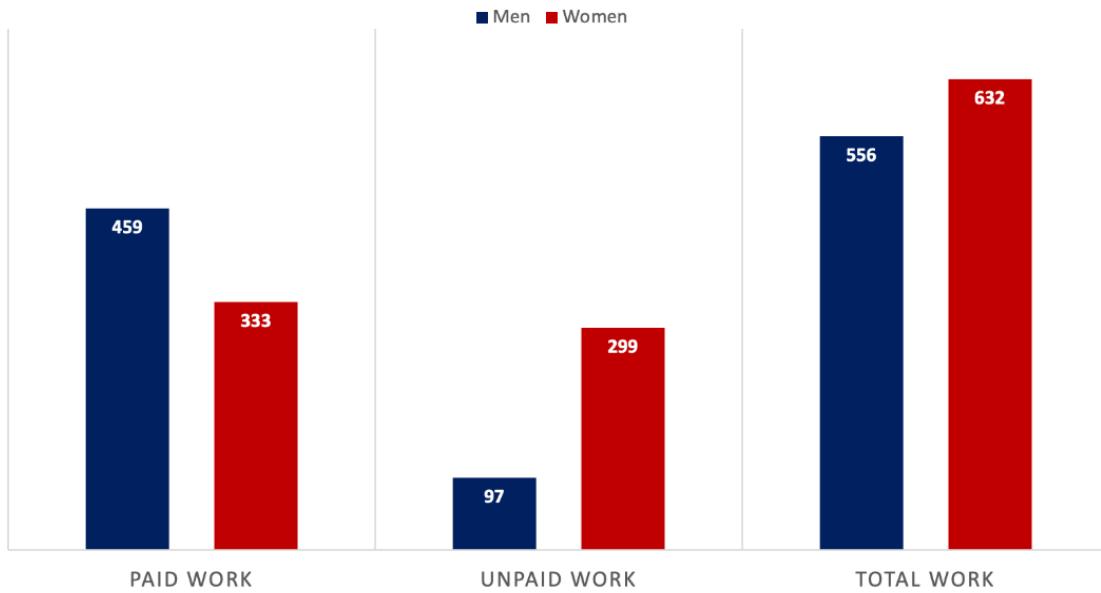
To begin, the first sub-section aims to answer the first sub-question; ‘What is the status and role of women construction workers in Northern India?’. This account was purely based on the individuals I interviewed and is hence a little biased. In the sense that this is a very small sample to base this on, however many similarities of the daily activities of women workers are found across the literature present in the field.

A woman construction worker’s day begins as early as eight am when she prepares to go to work and arrives at a ‘labour chowk (point/corner)’. This is the point of gathering for most construction workers, where they wait to be recruited by contractors and sub-contractors. However, you will not see a woman actively participating in the negotiations happening at this point, rather, women are there merely as bystanders. They do not spend much time here, and most definitely do not partake in negotiations or discussions about the work that is on offer. According to one of my interviewees Rashim Ben, in Ahmedabad city alone, there are about 20-25 labour points present and are concentrated around the developing sites of the city. If women are not negotiating work for themselves, then how do they find work for the day?

Most often, informal channels such as word-of-mouth are how women find their jobs. Or if their husband or any other male figure of the family is also present in construction work, then they will be the ones searching and asking around for work their wives, sisters etc can do.

Once a woman finds a contractor willing to take her on, they are employed for ‘Reja Kam’ which translates to ‘unskilled work’. This mainly includes loading and unloading of raw materials from trucks and carrying to where it’s needed, mixing cement, digging, heavy lifting of bricks and other materials. As said by Dipika Ben, it is very rare that women are employed in skill work that would be easier on their bodies and mental health. Rather they are almost always used for basic work that no male counterpart wants to undertake. A women worker’s day ends around 6pm which results in a day that lasts approximately 10 hours of work a day. The 8 am to 6 pm window does not account for the travel time these women incur. Travel can add approximately 2 hours on top of their 10-hour workday. They then return home to undertake another few hours of unpaid household labour. Such as cooking for the family, cleaning their homes, and spending time with their children if they have any. Ending the day, to only get around 5 hours of sleep and starting the whole cycle again, most often 7 days a week. Very few women get to take a day off due to the uncertain nature of construction work. The extent of women’s time spent doing unpaid household labour is presented in the figure 4. It showcases that overall, women do much more due to double burden they bear.

AVERAGE TIME SPENT DAILY IN PAID, UNPAID AND TOTAL WORK (MINUTES)



SOURCE: [TIME USE IN INDIA 2019](#), NATIONAL STATISTICAL OFFICE

Figure 4: Bar chart showing the difference between paid and unpaid work for women and men. (National Statistical Office in The Diplomat, 2020)

The socio-economic dynamics of construction women workers present some trends. Almost all women are daily wage earners, this is the nature of the construction sector as it falls under the unorganised sector. No one caste is identified, there are many presents across the sector, but they are associated more with low-income groups and socially marginalised groups. According to Dipika Ben, women come mainly from the Hindu religion, but some Christians are present, and none/little number of Muslim women are present. Most of them are migrants, from rural parts of India, moving to the closest urban areas. A lot of them are ex-agricultural workers moving to urban areas due to a collapse in the agricultural sector in their rural villages. Some workers move to different states, but not to completely different states in terms of language and culture, this would prove to be too difficult for their survival. Most of these women are uneducated and illiterate, and if they do have some form of education, it does not surpass secondary schooling.

Challenges, Initiatives, and Implementation Issues of BOCW

The last sub-section of this chapter will present an overview of the challenges faced by women workers, and the initiatives trade unions propose in accordance with/independent of the BOCW act. Finally ending on the opinions of trade unions towards the BOCW act, and what they think the main issues of implementation are.

Table 2: Table showing results and findings of the research paper.

	SEWA (Cooperative) and Mahila Housing Trust	SEWA Delhi	Building and Woodworkers International (BWI)	NIRMANA
Everyday Challenges of Women Workers	<ol style="list-style-type: none"> 1. Transportation → time-consuming and (sometimes) expensive 2. Social unacceptedness and cultural taboos 3. Even once they are skilled, finding a job after is difficult 4. Wage discrimination, no proper toilets, no childcare (creche) facilities, no employment security 5. The double burden of household chores + having an income for the family. 	<ol style="list-style-type: none"> 1. Women are first and foremost seen as members of the family 2. Cultural mindset 3. Not enough maternity leave = increased number of miscarriages 4. Corruption 5. Discrepancy within the State Welfare Boards 6. The government keeps adding more schemes instead of maintaining the ones that exist. 7. Wage discrimination, no proper toilets, no childcare (creche) facilities, no employment security 	<ol style="list-style-type: none"> 1. Training women alone is not enough. 2. Women are first and foremost seen as members of the family 3. Cultural mindset 4. Increased mechanization in the industry 5. Wage discrimination, no proper toilets, no childcare (creche) facilities, no employment security 6. Transportation 	<ol style="list-style-type: none"> 1. Lack of skill leads to wage discrimination 2. Women are first and foremost family members 3. Cultural mindset 4. Women are further oppressed and exploited by the mindset and values of the current ruling party (BJP).

Solutions/initiatives in accordance with the BOCW act	<p>SEWA have been working in two ways:</p> <ol style="list-style-type: none"> 1. Helping women to register themselves online/offline with the government at their union office. (acquiring Aadhar cards and pan cards) 2. Helping with any issues and consequences faced after registration 	<p>For their members:</p> <ol style="list-style-type: none"> 1. Help enrol in government schemes 2. Help acquire Aadhar cards, pan cards, birth and death certifications and other key legal documents 3. (Trying) to Help with difficulties in the workplace 4. Making sure they have access to clean water and safe toilet facilities at the workplace (small scale) 	X	<p>Nirmana is slightly different as it focuses more on the top-down approach. They were involved in the creation of the act and actively lobbied for workers' rights.</p>
Solutions/ Initiatives independent of the BOCW act	<p>Construction workers cooperative - Raichaita, has two aims</p> <ol style="list-style-type: none"> 1. Develop the skills of the construction workers 2. Create employment linkages <p>Other:</p> <ol style="list-style-type: none"> 1. Tools Library Initiative <p>MHT:</p> <ol style="list-style-type: none"> 1. Construction workers skill upgradation programme 2. Training includes → practical and theory training. 	<p>For their members:</p> <ol style="list-style-type: none"> 1. Connect them with centres that can give women skill development training 2. Tool kit library 3. Educate them on their rights 4. Help with their children's rights 	<p>They work alongside regional construction unions and offer need-based interventions</p> <ol style="list-style-type: none"> 1. Skill development programme 2. Creating employment linkages <p>Additionally, women have also been trained in</p> <ol style="list-style-type: none"> 1. Leadership roles 2. Knowing their rights and how to use them to their benefit 	<p>Partnered with BWI to provide women with a skills development course.</p>

			<p>Other:</p> <ol style="list-style-type: none"> 1. Encouraging unions to form cooperatives 2. Trying to organise transportation for workers. 	
Opinions on the BOCW Act from Unions	<p>Overall it's a very good act promising lots of positive potential for workers but the implementation is very questionable</p> <p>Many solid welfare schemes have come out of the BOCW</p> <ul style="list-style-type: none"> • Medical benefits • Scholarships for kids • Death in accidents and natural compensation • Maternity benefit 	<p>The Act is written very well and the way it promised to function has lots of potential for this sector.</p> <ul style="list-style-type: none"> • BOCW is a self-generating fund • Examples of schemes promised under this act <ul style="list-style-type: none"> ◦ Pensions ◦ Maternity benefits ◦ Scholarships for schooling ◦ Creches ◦ Toilets 	<p>Subhash Ji was very involved in the creation and lobbying of this act. Together with his co-founder and a few other influential figures. They wrote the act in close coordination with multiple construction worker groups, local unions and activists. They protested and talked with multiple members of parliament in order to convince them and pass the act.</p>	

BOCW Act Implementation issues	<ul style="list-style-type: none"> Implementation of the above welfare schemes is very slow Funds for the schemes find themselves in other purposes. The board meets very irregularly Incoherency in SEWAs approach and that of the welfare board. 	<ul style="list-style-type: none"> Workers must be registered to be eligible but registration is slow Funds are often used for other purposes Welfare board meetings are very unpredictable, especially after COVID The mindset of the board is not aligned with the act 	<ul style="list-style-type: none"> Inconsistency between act and reality Registration is state-wise only Tripartite welfare boards do not have equal representation. Welfare board has a lack of control over their funds
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Chapter 6 - Discussion and Analysis of Field Work Data

This section will focus on the discussion of the above-presented data in order to answer the central research question at hand.

The Current Status of Women Workers

The data gathered on the daily activities of women workers set a very important foundation for understanding the role of women workers in the construction industry. What I came across in the literature was pretty much confirmed by the individuals I interviewed. All of them stated that women are constrained to unskilled work, and primarily do tasks such as mixing cement, carrying heavy raw materials, digging etc. As stated by Kakad (2007) this supports the notion of gender roles that restrict women from gaining skills and better opportunities due to the fear that exists within men and others in society. What will men, who are meant to be the primary breadwinner of the family, take on if women do more than unskilled labour? Further, women's work is always seen as simple and easy, hence why only women are employed to do these jobs. If not women, then their work is done by machines and the increased amount of mechanization has started to eliminate women from the workforce. One of the reasons for this comes down to the protective legislation that the BOCW act behaves like. Although most believe these tasks to be simple and easy, one of my interviewees highlighted that it is exactly these tasks that take a much harsher toll on women's bodies and minds. Additionally, women get paid much less and are treated much worse than their male counterparts. They also must bear the double burden of household labour, where due to their low-income status, they cannot sacrifice paid work, but also must take on household responsibilities assigned to them by the patriarchal society.

Nonetheless, the account of my interviewees did add a little bit more clarity on the structure of a woman worker's day. The hours worked, how negotiations play out at labour chowks and data on travel were clearer to the study when bought up by interviewees. Preerna from BWI mentioned how

“It is not socially acceptable for women to be standing at a labour contact point. It's not seen as a space [for women] like it's more a male-dominated space”.

Rajeev from BWI adds that

“Women can even face harassment at these sites, there is a lot of negotiation going on here”.

These accounts showcase that from the very second women enter the construction realm, they are constantly discriminated against. They cannot even negotiate for their own work, most often their husbands or brothers must take this role on for them. This protectiveness removes agency from the women, they cannot look and find work that functions on their terms and hence why they end up being exploited as forms of cheap labour.

Further, I found the accounts of travel to be most interesting, something I did not come across in the studied literature. Travelling to and back from the worksite increases the burden on women much more than it would have for men. Rashim from SEWA cooperative states why women want to be closer to their homes

“One, they want to save on their time and two, they want to save [money] on their transportation. Their incomes are not such that they can sustain the cost of travel”.

For daily wagers earning 250-300 rupees a day, spending around 100 on travelling costs is not sustainable what so ever. Additionally, women are confined to taking on the burden of domestic household labour. They cannot afford to find work too far from their homes, most often they prefer not to and neither do their families. Family pressure adds to this, as women are seen first and foremost as members of the family, it is seen as not acceptable for them to work far away from home. Following gender divisions of labour, in order for women to complete their household tasks, they cannot waste time travelling to and from work. As stated by Engels, the household feels the impact much more when women are away performing time-consuming jobs as compared to men. This further restricts them from being able to find decent construction work and keeps them so stuck to their gender roles.

Daily challenges of women

Opinions of challenges faced by women workers in the field are similar across the three unions I spoke with. All of them mention that women face wage discrimination, the majority of them do not have access to proper toilets, wash, maternity leave or creche facilities, and finally, no skills or employment opportunities. As said by Rashim from SEWA

“First of discrimination is the kind of work that they get and second is the income from it”

Implying that the type of work that is reserved for women is in and of itself discrimination. To worsen this, the cultural mindset of society is another major challenge to women workers.

“Even if [women] worker is skilled or semi-skilled she is not preferred because the contractor feels that the speed of a woman worker and that of a male worker is different [...] they also feel that the precision and care of work is done more by men than women workers”.

This point helps employers justify why women's work is cheap and why they are discriminated against in climbing up the opportunity ladder. Among society's mindsets, women's income is irrelevant to the upkeep of the family. It was therefore understood as only having a supplementary capacity and not essential to the survival of the family compared to their male counterparts.

Subhash from Nirmana said,

“The present government, which we have now is not likely to consider women as workers. They in general, women are family members”.

The current ruling party is more concerned with the growth of the economy rather than social security or the welfare of the workers. This lack of priority towards informal workers, puts them in vulnerable positions, reflecting worse on women workers. On average, it is understood that men have more individuals dependent on them and their incomes, thus women entered the labour force already in a weaker position. Employers then used this against them in order to successfully exploit their work and widen the wage gap (Hensman, 2011c). What this ignores, however, is the fact that not all women

in the construction workforce are the same, some are single, and some are widowed. Assuming such notions are harmful towards the overall welfare of women.

The representatives I talked with at BWI raised that training women alone in skilled construction work is sadly not enough. At first, it was thought that providing skill upgradation programmes for women would help them gain better employment opportunities. This, unfortunately, was not the case, and this once again ties back to the social unaccepted-ness and cultural taboos women face within this male-dominated industry. Even if women are skilled, they are not favoured by the contractors due to the mandatory legislative benefits they must provide to women. As women get less flexible and more expensive, employers turn to other channels to replace them.

In turn, the BOCW Act/state governments do very little to tackle it. Lata from SEWA states

“The government does not work on existing issues; they keep on bringing new schemes instead of implementing existing schemes properly. Not getting regular jobs is the biggest issue for women”.

The Act sets out what employers must provide to their women workers, but what it does not do is hold employers accountable for their behaviour. The lack of quality and to some degree, the corruption present in decision-making actors is a huge threat to the welfare of women workers as often it is this group that bears the burden.

Initiatives in accordance with and independent of the act

The majority of the work that is done by trade unions falls outside of the BOCW act, although a majority of them were closely involved in bringing this act to parliament. It is not up to them to implement its clauses, as it does not fall under their authority. However, trade unions try their best to get workers registered under the act to be eligible for the welfare schemes it promises. BWI and Nirmana, focus their efforts distant from the BOCW Act. Whereas SEWA works with women workers and aids them in getting registered under the act, this is their primary initiative in accordance with the act.

Rashim from SEWA cooperative states

“We’ve been working in two ways. One is that at the union office itself, we are helping the members to come and register themselves online as well as offline. We negotiated with the board authorities to make SEWA (Ahmedabad) the centre wherein we were collecting forms for renewal as well as registration. We were verifying them ourselves. We were checking all the details to make sure no problems occur further on”.

SEWA has taken on the role of helping women navigate through this bureaucratic process. Most women are illiterate and could not take these forms and checks on their own. A majority of them do not have Aadhar cards (Indian Identity Card) or birth certificates to register under the act. All these legal provisions are complicated for women workers, and it is unfair to expect them to know the process. Hence why SEWA has taken the initiative in wanting to help make the process simpler for women. As said by Dipika from MHT (SEWA),

“Every year you have to renew it [registration] but the womens are not aware [...] our women are not aware or illiterate, so she’s not alert about this”.

If they miss out on renewing their registration, they are removed from the welfare distribution lists and then have to restart the time-consuming process from the beginning. This kind of organising of women helps them feel empowered, and as unions educate them on the process and their rights. The hope is that in the future, they can manage this themselves, and spread awareness.

Apart from this, trade unions do a lot independent of the BOCW act, all three trade unions I spoke with focus on providing skill upgradation programmes to women workers. Each has its own structure, but the initial idea is the same. SEWA members in the Ahmedabad region, are directed to enrol in MHT skill upgradation programmes. Lasting for a few months, women are provided stipends to compensate for their time, they are taught the practical and theoretical knowledge of construction work. However, MHT’s reach is small, but the women they do help gain valuable skills for their professional careers. However, in the sector, women with skills are not appreciated much and still struggle to find jobs after. Hence, why under the SEWA cooperative as said by Rashim

“The second part of the cooperative looks into [creating] linkages of work for these workers [...] cooperative started taking its own orders and its own contracts to involve all the skilled workers. Whatever [monetary reward] is received from this work is distributed among the members of the cooperative”.

This is consistent with the basics of cooperative theory. Through the resources of the trade union, SEWA has set up a cooperative - *Rachaita*, for construction workers to co-dependently work with each other in order to obtain employment opportunities. For women workers in India, this model works very well. Rajeev and Preerna from BWI also highlighted how some of their work revolves around encouraging local unions to form cooperatives for women workers. To help raise awareness about their worth as well as giving them a platform to gain decent work. However, it can come with certain limitations, I see a problem in its long-term functioning, specifically, problems that can occur when such cooperatives become too large. Then there can be an unequal division of monetary rewards and not enough opportunities for every member. Finding a solution to this can be tricky, but one way I think unions can oversee this is by effective management and making sure women are given equal opportunities. Having strong partnerships with some middlemen, and striking up deals to ensure employment, can be another way to confirm the success of cooperatives. It is of course impossible to change the mindset of all contractors and other middlemen. However, through the network and collective bargaining of unions, mindsets can slowly change one contractor at a time. Hoping it will create a trickle-down effect in society.

In addition to skill development, BWI goes one step further and fosters a learning environment for women beyond construction work. Rajeev from BWI states

“We have been giving women also trainings on their rights, what are their rights, and also training them about leadership roles, awareness generation because to empower women, training alone [in practical skill] is not sufficient.”

Encouraging unions to engage in dialogue with local contractors and companies to create these employment linkages is a crucial step. It is proven women can get better wages if they are skilled,

but the gap is findings jobs after their training, and this is where the power of the union shows. Trade unions are the voices of these women workers, advocating for their needs is their power. As exemplified by SEWA, Lata says that by negotiating with the welfare board

“Earlier the maternity stipend was 10,000 INR per month, later it was increased to 30,000 INR per month”.

Further, SEWA has developed a recent initiative, in the Ahmedabad and Delhi regions- Tool Kit Library. For skilled women workers, having tools may be necessary for some positions such as tiling. This initiative was created on a needs-based assessment. Once women became skilled, union workers saw a gap in these women being able to afford these tools, and for some reason, it was not being provided by the work site. To fill this gap, women can come to SEWA points, rent tools for a very small price and return them on the agreed day. It is cost-effective and sustainable for women workers. Another way of organising that focuses more on empowering and giving agency to women rather than controlling them from the top down.

BOCW act and its implementation issue

Across all unions interviewed, they all felt the BOCW act was a very strong piece of legislation that could highly benefit every construction worker in the country. It gave way to the creation of a state-wide welfare board that would mandate welfare schemes as per the needs of the workers. This is a self-generating fund, where every registered employer must pay 1% of CESS to the board before the beginning of any construction project. However, a key limitation and one that was stated by most respondents, is that the act is mandated state-wise. There is an imbalance in the country and every state interprets the act as they wish. Hence, some states function better than others. Further, registration under the act is only state-wise, and with 90% of the workforce being migratory in nature this is a huge obstacle. Unions have been trying to have this changed to make a nationwide registration policy. However, bureaucracy in India is slow and does not prioritize construction workers.

After speaking to union workers, observing the field, and reading up on literature. The biggest problem of the act lies in the management of funds. Rajeev from BWI says

“There have been cases where the funds have been used for expenses, which are not permitted under the BOCW”.

There is a lack of budget control, in fact, there is no budget mapping done for the management of funds at all. This is what I have noticed to be the fundamental problem for the effective functioning of the welfare boards. In fact, this was echoed by every individual I interviewed, as said by Rama Chandra

“State governments are utilizing it as if it is their budget allocated fund and using here and there”.

What they imply here is that corruption exists within state governments and instead of using the fund primarily for construction workers, they use it wherever they wish. Additionally, some welfare boards do not meet regularly, which creates incoherence in their approach to welfare planning. As said by Lata from SEWA

“There is a free bus pass scheme, using which women can travel in busses for free. We advised the board that there should be a similar scheme for construction as well, but they didn’t do that”.

There is incoherency between the needs SEWA puts forth and what the welfare board assumes workers need. This kind of bus pass scheme would help tackle one of the most challenging obstacles women face. Transportation removes so much time from their household responsibilities that it takes a toll on their well-being. Further, there is no strong gendered lens applied to BOCW, the act does state that at least one member of the welfare board must be a woman. But as confirmed by Subhash from Nirmana, this is not upheld across all states, and no one is present to regulate either. There are many other provisions that the welfare boards do not implement as stated by the act. Employers either do not or insufficiently provide maternity benefits, creches and separate toilet facilities. It varies from state to state and hence why it can be difficult for unions to keep track. Another example is that of safety precautions, as confirmed by Subhash

“80% of the law is on safety [of workers], till date, there is not a single board in the country that has a safety official”.

Not only is there a discrepancy between the trade union approach and the welfare board (state), but there is also incoherency in the act and implementation of its provisions.

This chapter put forth a thematic analysis of what was revealed by my interviewees in the field work phase of my research. Keeping my sub-questions in mind, I deconstructed what was found in the field, breaking down first the status of women in the industry and the type of work they are constrained to. Followed by the major challenges they face in the sector concluding with the initiatives and solutions unions focus on bringing to these women workers. Attempting to answer my central research question at hand.

Conclusion

Women workers are one of the most marginalised groups in the Indian informal sector. Within the construction sector, their role is merely a supplementary capacity, stuck within the unskilled side of the sector. They face immense daily challenges, from wage discrimination, harassment and intimidation from male workers/contractors, employment insecurity and lack of gender specific welfare schemes. Together, they make the status of women in the industry an extremely vulnerable one. Even if women undergo training programmes, they struggle in acquiring decent work due to the social taboos and gender stereotypes that exist in society. Women are first and foremost seen as family members, this not only impacts their professional lives, but they have to bear the burden of domestic household labour.

The BOCW act of 1996 plays a significant role in trying to tackle and ease these challenges for women workers. Across all unions interviewed for this paper, it was felt that the legislation itself is strong and carries lots of potential. The issues begin in its implementation, as this is done very poorly and there are no acceptable checks and balances present to manage this lack in governance. Although trade unions played a significant a notable role in campaigning for this act. The authority of trade unions and their impact lies mainly independent of the BOCW Act. Specifically, Nirmana, had a direct impact in campaigning for the BOCW Act and bringing it up to parliament. The majority of the unions power lies outside of the BOCW act. The act is merely there for the provision of welfare and social security schemes such as - maternity benefits, childcare, pensions, healthcare, education for children etc. Additionally, the act also outlines the provisions that must be provided at the worksite such as, separate toilet facilities, creches for young children, break time and fixed working hours. These are provisions for the employer and the welfare board to undertake and manage. Hence why the unions feel this act is written well and has much potential to function for the construction sector, because it is self-generating and self-regulating.

However, there is one major issue with the act, and that is the state-wide registration. Majority of construction workers are seasonal migrants, due to construction work being uncertain and concentrated in urban environments. As socio-economic growth occurs, it dictates where development goes, and so workers follow this path to find jobs. Hence why unions are advocating towards a nation-wide registration, so they can move around freely to work and still be eligible for welfare schemes. Yet so far this has been unsuccessful

Referring back to my research question directly, trade unions contribute to the welfare of women workers independent to the BOCW act. Through curating skill upgradation programmes, leadership workshops, educating women on their rights, creating employment linkages with contractors, encouraging the formation of cooperatives and engaging in dialogue with contractors and welfare boards they support the position of women within the sector. However, their reach is small, due to the diversity and size of the country/sector it is hard to reach every construction worker. They try their best in having presence in the lives of workers, trying to understand their needs and how to bring solutions to these gaps. They work on an advocacy level to ensure the functioning of the act, pushing welfare boards to perform better and they work on a more local level in providing skills, and employment to the most vulnerable. As compared to the big, recognized unions under the CTUO, the unions present in this research paper, are more local and grassroot, rising from a point of need and no political affiliation.

With this said, a lot more can be and must be studied on the role of trade unions in India. Especially of their role in the lives and welfare of vulnerable women groups such as in the construction industry. I have attempted to scratch the surface of this by opening academia to the initiatives and solutions set forth by trade unions. Emphasising the fact that more grassroot sector specific unions have a lot of potential in helping the most vulnerable. The way they organise and unionise workers, utilising their collective bargaining power has done a great deal for women workers in the field. Since there is very little literature present on this in the field, it deserves and requires academic attention. What has been revealed in this research paper has opened up debate on the initiatives of trade unions. This needs more attention and development, perhaps by determining how impactful and useful such initiatives are to women workers. That is a limitation to this paper, but something that add a lot to the bigger academic debate on vulnerable women groups in the Indian informal sector as a whole.

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Appendix A: Semi Structured Interviewing

Interview Schedule:

Name of interviewee	Date and Place	Trade Union
Subhash	28th July 2022, New Delhi	Nirmana
Phon Kumar	29 th July 2022, New Delhi	Tamil Nadu Welfare Board Chair (supplementary interview)
Rama Chandra	29 th July 2022, New Delhi	BWI
Dipika	1 st August 2022, Hyderabad (online)	MHT
Lata	24 th August 2022, NL (online)	SEWA
Rajeev	26 th August 2022, NL (online)	BWI
Preerna	26 th August 2022, NL (online)	BWI
Rashim	29 th August 2022, NL (online)	SEWA

Interview Questionnaire:

Research Paper - Sushruta Kokkula, Interview Script for Trade Union Workers.

Main RQ:

- *What is the role of non-state actors (such as unions and organizations) in guiding and improving the well-being of women construction workers in New Delhi, India?*

Objectives:

- First, determine India's female construction workers- where they come from, why they end up in this industry, etc.
- A brief overview of the 'Building and other construction workers act, 1996' this policy is seen as an important benchmark for the construction sector. (What is its role, where are the gaps, has it been implemented well etc.).
- Understand the role of women's unions such as SEWA for the lives of construction women workers. What is their organizational structure? (How are they structured, what does it mean to be a SEWA member) what are their initiatives and campaigns surrounding construction women?
- How does SEWA align their initiatives to state policy How important is a state policy of construction workers to SEWA's activities? What services does SEWA provide to workers independent to the state policy?

[This interview is semi-structured; I hope to bounce off their answers as well depending on the content they provide]

Interview script:

Mr/Ms ___ thank you so much for speaking with me today, I really appreciate it and look forward to hearing what you have to share with me. [*Introduce myself, what I am doing etc*] Is it okay if I record this interview? ...

1. Can you please introduce yourself and your role/position at ___ *[or other organizations/fields, adjust accordingly to the interviewee]*?
2. Can you tell me about your organization and its background, values, mission etc.?
3. Let's speak about the current projects your organization is working on?
4. Can you speak more about the organizational structure of your institution?
 - a. *If SEWA → How are women recruited to be members of the organization? What are the conditions? What are the primary services offered to them in exchange for their membership in SEWA?*
 - b. *Other → What kind of direct help is offered to women within these unorganized sectors by your organization?*

Now let's dive into the unorganized sector of India, with a specific focus on construction workers.

1. Can you tell me what you know about the construction force of India, specifically about the manual labourers classified within the unorganized sector? *(looking for knowledge on statistics, sector structure etc.)*
2. From your perspective, what do a women worker's daily activities look like in the construction field?
 - a. How are they picked for work, what are their activities, for how long do they work, where are they from (eg. seasonal migrants), and what kind of social backgrounds do they have (eg. caste and religion)
3. Focusing particularly on women, are you aware of/do you know about the struggles/challenges they face in their everyday working lives?
 - a. How do you think employers and other actors address these issues?
 - i. What initiatives is your organization putting forth? How is it addressing the challenges of women?
 - b. Are employers/contractors a big part of the problem, if so in what way?
 - c. What is the role of third-party actors such as unions and NGOs for these women?

Turning to state policy concerning the protection of construction workers.

1. Are there any policies and legislation present in protecting the rights of construction workers, specifically women?
 - a. Can you tell me about the bigger policy and legislation gaps present in Indian society concerning the well-being of construction workers?
2. To your best knowledge, can you tell me about the 'Building and Other Construction Workers Act of 1996' (BOCW)? What is its purpose and in your opinion how does it affect construction workers?
 - a. Does it address women's needs? Or apply any kind of gender lens?
3. In what way has your organization been influenced by/ influenced by the BOCW act?
 - a. Are your objectives and goals aligned with what is seen in this state policy?
 - b. Are there projects aimed at tackling the gaps it presents?

- c. Overall, do you think this is a positive or negative step for women construction workers?
- d. *If the answer is more about how/ if the organisation influenced the act (eg. it was key in lobbying) → then in what ways did the organisation have power over this?*
 - i. What methods, values, and ideals did it present in order to lobby this act?
 - ii. In what ways did your organization influence the passing of this policy?

Thank you so much for your time, is there anything else you would like to add before I stop the recording?

[end script]

Appendix 2: Photos from the Field



I was invited to a conference by Subhash from Nirmana, to hear stories and experiences from individuals in the field as well as have an opportunity to interview and meet people.

Appendix 3: Building and Other Construction Workers Act of 1996

THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1996

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent, commencement and application.
2. Definitions.

CHAPTER II

THE ADVISORY COMMITTEES AND EXPERT COMMITTEES

3. Central Advisory Committee.
4. State Advisory Committee.
5. Expert committees.

CHAPTER III

REGISTRATION OF ESTABLISHMENTS

6. Appointment of registering officers.
7. Registration of establishments.
8. Revocation of registration in certain cases.
9. Appeal.
10. Effect of non-registration.

CHAPTER IV

REGISTRATION OF BUILDING WORKERS AS BENEFICIARIES

11. Beneficiaries of the Fund.
12. Registration of building workers as beneficiaries.
13. Identity cards.
14. Cessation as a beneficiary.
15. Register of beneficiaries.
16. Contribution of building workers.
17. Effect of non-payment of contribution.

CHAPTER V

BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE BOARDS

18. Constitution of State Welfare Boards.
19. Secretary and other officers of Boards.

20. Meetings of Boards.
21. Vacancies, etc., not to invalidate proceedings of the Boards.
22. Functions of the Boards.
23. Grants and loans by the Central Government.
24. Building and Other Construction Workers' Welfare Fund and its application

SECTIONS

- 25. Budget.
- 26. Annual report.
- 27. Accounts and audit.

CHAPTER VI

HOURS OF WORK, WELFARE MEASURES AND OTHER CONDITIONS OF SERVICE OF BUILDING WORKERS

- 28. Fixing hours for normal working day, etc.
- 29. Wages for overtime work.
- 30. Maintenance of registers and records.
- 31. Prohibition of employment of certain persons in certain building or other construction work.
- 32. Drinking water.
- 33. Latrines and urinals.
- 34. Accommodation.
- 35. Crches.
- 36. First-aid
- 37. Canteens, etc.

CHAPTER VII

SAFETY AND HEALTH MEASURES

- 38. Safety Committee and safety officers.
- 39. Notice of certain accidents.
- 40. Power of appropriate Government to make rules for the safety and health of building workers.
- 41. Framing of model rules for safety measures.

CHAPTER VIII

INSPECTING STAFF

- 42. Appointment of Director-General, Chief Inspector and Inspectors.
- 43. Powers of Inspectors.

CHAPTER IX

SPECIAL PROVISIONS

- 44. Responsibility of employers.
- 45. Responsibility for payment of wages and compensation.
- 46. Notice of commencement of building or other construction work.

CHAPTER X

PENALTIES AND PROCEDURE

- 47. Penalty for contravention of provisions regarding safety measures.
- 48. Penalty for failure to give notice of the commencement of the building or other construction work.
- 49. Penalty for obstructions.
- 50. Penalty for other offences.
- 51. Appeal.
- 52. Recovery of penalty.

SECTIONS

- 53. Offences by companies.
- 54. Cognizance of offences.
- 55. Limitation of prosecutions.

CHAPTER XI

MISCELLANEOUS

- 56. Delegation of powers.
- 57. Returns.
- 58. Application of Act 8 of 1923 to building workers.
- 59. Protection of action taken in good faith.
- 60. Power of Central Government to give directions.
- 61. Power to remove difficulties.
- 62. Power to make rules.
- 63. Saving of certain laws.
- 64. Repeal and saving.

THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1996

ACT NO. 27 OF 1996

[19th August, 1996.]

An Act to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent, commencement and application.—(1) This Act may be called the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of March, 1996.

(4) It applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work.

Explanation.—For the purposes of this sub-section, the building workers employed in different relays in a day either by the employer or the contractor shall be taken into account in computing the number of building workers employed in the establishment.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means,—

(i) in relation to an establishment (which employs building workers either directly or through a contractor) in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;

(ii) in relation to any such establishment, being a public sector undertaking, as the Central Government may by notification specify which employs building workers either directly or through a contractor, the Central Government;

Explanation.—For the purposes of sub-clause (ii), “public sector undertaking” means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) which is owned, controlled or managed by the Central Government;

(iii) in relation to any other establishment which employs building workers either directly or through a contractor, the Government of the State in which that other establishment is situate;

(b) “beneficiary” means a building worker registered under section 12;

(c) “Board” means a Building and Other Construction Workers’ Welfare Board constituted under sub-section (1) of section 18;

(d) “building or other construction work” means the construction, alteration, repairs, maintenance or demolition, of or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include

any building or other construction work to which the provisions of the Factories Act, 1948 (63 of 1948), or the Mines Act, 1952 (35 of 1952), apply;

(e) “building worker” means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person—

(i) who is employed mainly in a managerial or administrative capacity; or

(ii) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;

(f) “Chief Inspector” means the Chief Inspector of Inspection of Building and Construction appointed under sub-section (2) of section 42;

(g) “contractor” means a person who undertakes to produce a given result for any establishment, other than a mere supply of goods or articles of manufacture, by the employment of building workers or who supplies building workers for any work of the establishment; and includes a sub-contractor;

(h) “Director-General” means the Director-General of Inspection appointed under sub-section (1) of section 42;

(i) “employer”, in relation to an establishment, means the owner thereof, and includes,—

(i) in relation to a building or other construction work carried on by or under the authority of any department of the Government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department;

(ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the chief executive officer of that authority or establishment;

(iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor;

(j) “establishment” means any establishment belonging to, or under the control of, Government, any body corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes an establishment belonging to a contractor, but does not include an individual who employs such workers in any building or construction work in relation to his own residence the total cost of such construction not being more than rupees ten lakhs;

(k) “Fund” means the Building and Other Construction Workers’ Welfare Fund of a Board constituted under sub-section (1) of section 24;

(l) “notification” means a notification published in the Official Gazette;

(m) “prescribed” means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(n) “wages” shall have the same meaning as assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936).

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER II

THE ADVISORY COMMITTEES AND EXPERT COMMITTEES

3. Central Advisory Committee.—(1) The Central Government shall, as soon as may be, constitute a Committee to be called the Central Building and Other Construction Workers’ Advisory Committee

(hereinafter referred to as the Central Advisory Committee) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it.

(2) The Central Advisory Committee shall consist of—

(a) a Chairperson to be appointed by the Central Government;

(b) three Members of Parliament of whom two shall be elected by the House of the People and one by the Council of States—members;

(c) the Director-General—member, *ex officio*;

(d) such number of other members, not exceeding thirteen but not less than nine, as the Central Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Advisory Committee.

(3) The number of persons to be appointed as members from each of the categories specified in clause (d) of sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Advisory Committee shall be such as may be prescribed:

Provided that the members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

(4) It is hereby declared that the office of member of the Central Advisory Committee shall not disqualify its holder for being chosen as, or for being, a Member of either House of Parliament.

4. State Advisory Committee.—(1) The State Government shall constitute a committee to be called the State Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the State Advisory Committee) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it.

(2) The State Advisory Committee shall consist of—

(a) a Chairperson to be appointed by the State Government;

(b) two members of the State Legislature to be elected from the State Legislature—members;

(c) a member to be nominated by the Central Government;

(d) the Chief Inspector—member, *ex officio*;

(e) such number of other members, not exceeding eleven, but not less than seven, as the State Government may nominate to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests which, in the opinion of the State Government, ought to be represented on the State Advisory Committee.

(3) The number of persons to be appointed as members from each of the categories specified in clause (e) of sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of State Advisory Committee shall be such as may be prescribed:

Provided that the number of members nominated to represent the building workers shall not be less than the number of members nominated to represent the employers.

5. Expert committees.—(1) The appropriate Government may constitute one or more expert committees consisting of persons specially qualified in building or other construction work for advising that Government for making rules under this Act.

(2) The members of the expert committee shall be paid such fees and allowances for attending the meetings of the committee as may be prescribed:

Provided that no fee or allowances shall be payable to a member who is an officer of Government or of any body corporate established by or under any law for the time being in force.

CHAPTER III
REGISTRATION OF ESTABLISHMENTS

6. Appointment of registering officers.—The appropriate Government may, by order notified in the Official Gazette,—

- (a) appoint such persons, being Gazetted Officers of Government, as it thinks fit, to be the registering officers for the purposes of this Act; and
- (b) define the limits within which a registering officer shall exercise the powers conferred on him by or under this Act.

7. Registration of establishments.—(1) Every employer shall,—

- (a) in relation to an establishment to which this Act applies on its commencement, within a period of sixty days from such commencement; and
- (b) in relation to any other establishment to which this Act may be applicable at any time after such commencement, within a period of sixty days from the date on which this Act becomes applicable to such establishment,

make an application to the registering officer for the registration of such establishment:

Provided that the registering officer may entertain any such application after the expiry of the periods aforesaid, if he is satisfied that the applicant was prevented by sufficient cause from making the application within such period.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration to the employer thereof in such form and within such time and subject to such conditions as may be prescribed.

(4) Where, after the registration of an establishment under this section, any change occurs in the ownership or management or other prescribed particulars in respect of such establishment, the particulars regarding such change shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed.

8. Revocation of registration in certain cases.—If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact or that the provisions of this Act are not being complied with in relation to any work carried on by such establishment, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, he may, after giving an opportunity to the employer of the establishment to be heard, revoke the registration.

9. Appeal.—(1) Any person aggrieved by an order made under section 8 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, confirm, modify or reverse the order of revocation as expeditiously as possible.

10. Effect of non-registration.—No employer of an establishment to which this Act applies shall,—

- (a) in the case of an establishment required to be registered under section 7, but which has not been registered under that section;
- (b) in the case of an establishment the registration in respect of which has been revoked under section 8 and no appeal has been preferred against such order of revocation under section 9 within the

period prescribed for the preferring of such appeal or where an appeal has been so preferred, such appeal has been dismissed,

employ building workers in the establishment after the expiry of the period referred to in clause (a) or clause (b) of sub-section (1) of section 7, or after the revocation of registration under section 8 or after the expiry of the period for preferring an appeal under section 9 or after the dismissal of the appeal, as the case may be.

CHAPTER IV

REGISTRATION OF BUILDING WORKERS AS BENEFICIARIES

11. Beneficiaries of the Fund.—Subject to the provisions of this Act, every building worker registered as a beneficiary under this Act shall be entitled to the benefits provided by the Board from its Fund under this Act.

12. Registration of building workers as beneficiaries.—(1) Every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be eligible for registration as a beneficiary under this Act.

(2) An application for registration shall be made in such form, as may be prescribed, to the officer authorised by the Board in this behalf.

(3) Every application under sub-section (2) shall be accompanied by such documents together with such fee not exceeding fifty rupees as may be prescribed.

(4) If the officer authorised by the Board under sub-section (2) is satisfied that the applicant has complied with the provisions of this Act and the rules made thereunder, he shall register the name of the building worker as a beneficiary under this Act:

Provided that an application for registration shall not be rejected without giving the applicant an opportunity of being heard.

(5) Any person aggrieved by the decision under sub-section (4) may, within thirty days from the date of such decision, prefer an appeal to the Secretary of the Board or any other officer specified by the Board in this behalf and the decision of the Secretary or such other officer on such appeal shall be final:

Provided that the Secretary or any other officer specified by the Board in this behalf may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the building worker was prevented by sufficient cause from filing the appeal in time.

(6) The Secretary of the Board shall cause to maintain such registers as may be prescribed.

13. Identity cards.—(1) The Board shall give to every beneficiary an identity card with his photograph duly affixed thereon and with enough space for entering the details of the building or other construction work done by him.

(2) Every employer shall enter in the identity card the details of the building or other construction work done by the beneficiary and authenticate the same and return it to the beneficiary.

(3) A beneficiary who has been issued an identity card under this Act shall produce the same whenever demanded by any officer of Government or the Board, any inspector or any other authority for inspection.

14. Cessation as a beneficiary.—(1) A building worker who has been registered as a beneficiary under this Act shall cease to be as such when he attains the age of sixty years or when he is not engaged in building or other construction work for not less than ninety days in a year:

Provided that in computing the period of ninety days under this sub-section, there shall be excluded any period of absence from the building or other construction work due to any personal injury caused to the building worker by accident arising out of and in the course of his employment.

(2) Notwithstanding anything contained in sub-section (1), if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, he shall be eligible to get such benefits as may be prescribed.

Explanation.—For computing the period of three years as a beneficiary with a Board under this sub-section, there shall be added any period for which a person had been a beneficiary with any other Board immediately before his registration.

15. Register of beneficiaries.—Every employer shall maintain a register in such form as may be prescribed showing the details of employment of beneficiaries employed in the building or other construction work undertaken by him and the same may be inspected without any prior notice by the Secretary of the Board or any other officer duly authorised by the Board in this behalf.

16. Contribution of building workers.—(1) A building worker who has been registered as a beneficiary under this Act shall, until he attains the age of sixty years, contribute to the Fund at such rate per mensem, as may be specified by the State Government, by notification in the Official Gazette and different rates of contribution may be specified for different classes of building workers:

Provided that the Board may, if satisfied that a beneficiary is unable to pay his contribution due to any financial hardship, waive the payment of contribution for a period not exceeding three months at a time.

(2) A beneficiary may authorise his employer to deduct his contribution from his monthly wages and to remit the same, within fifteen days from such deduction, to the Board.

17. Effect of non-payment of contribution.—When a beneficiary has not paid his contribution under sub-section (1) of section 16 for a continuous period of not less than one year, he shall cease to be a beneficiary:

Provided that if the Secretary of the Board is satisfied that the non-payment of contribution was for a reasonable ground and that the building worker is willing to deposit the arrears, he may allow the building worker to deposit the contribution in arrears and on such deposit being made, the registration of building worker shall stand restored.

CHAPTER V

BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE BOARDS

18. Constitution of State Welfare Boards.—(1) Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the (name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to, it under this Act.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Board shall consist of a chairperson, a person to be nominated by the Central Government and such number of other members, not exceeding fifteen, as may be appointed to it by the State Government:

Provided that the Board shall include an equal number of members representing the State Government, the employers and the building workers and that at least one member of the Board shall be a woman.

(4) The terms and conditions of appointment and the salaries and other allowances payable to the chairperson and the other members of the Board, and the manner of filling of casual vacancies of the members of the Board, shall be such as may be prescribed.

19. Secretary and other officers of Boards.—(1) The Board shall appoint a Secretary and such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The secretary of the Board shall be its chief executive officer.

(3) The terms and conditions of appointment and the salary and allowances payable to the Secretary and the other officers and employees of the Board shall be such as may be prescribed.

20. Meetings of Boards.—(1) The Board shall meet at such time and place and observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be prescribed.

(2) The chairperson or, if for any reason he is unable to attend a meeting of the Board, any member nominated by the chairperson in this behalf and in the absence of such nomination, any other member elected by the members present from amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the members present and voting, and in the event of equality of votes, the chairperson, or in his absence, the person presiding, shall have a second or a casting vote.

21. Vacancies, etc., not to invalidate proceedings of the Boards.—No act or proceedings of a Board shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Board; or
- (b) any defect in the appointment of a person acting as a member of the Board; or
- (c) any irregularity in the procedure of the Board not affecting the merits of the case.

22. Functions of the Boards.—(1) The Board may—

- (a) provide immediate assistance to a beneficiary in case of accident;
- (b) make payment of pension to the beneficiaries who have completed the age of sixty years;
- (c) sanction loans and advances to a beneficiary for construction of a house not exceeding such amount and on such terms and conditions as may be prescribed;
- (d) pay such amount in connection with premia for Group Insurance Scheme of the beneficiaries as it may deem fit;
- (e) give such financial assistance for the education of children of the beneficiaries as may be prescribed;
- (f) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed;
- (g) make payment of maternity benefit to the female beneficiaries; and
- (h) make provision and improvement of such other welfare measures and facilities as may be prescribed.

(2) The Board may grant loan or subsidy to a local authority or an employer in aid of any scheme approved by the State Government for the purpose connected with the welfare of building workers in any establishment.

(3) The Board may pay annually grants-in-aid to a local authority or to an employer who provides to the satisfaction of the Board welfare measures and facilities of the standard specified by the Board for the benefit of the building workers and the members of their family, so, however, that the amount payable as grants-in-aid to any local authority or employer shall not exceed—

- (a) the amount spent in providing welfare measures and facilities as determined by the State Government or any person specified by it in this behalf, or
- (b) such amount as may be prescribed,

whichever is less:

Provided that no grant-in-aid shall be payable in respect of any such welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf.

23. Grants and loans by the Central Government.—The Central Government may, after due appropriation made by Parliament by law in this behalf, make to a Board grants and loans of such sums of money as the Government may consider necessary.

24. Building and Other Construction Workers' Welfare Fund and its application.—(1) There shall be constituted by a Board a fund to be called the Building and Other Construction Workers' Welfare

Fund and there shall be credited thereto—

- (a) any grants and loans made to the Board by the Central Government under section 23;
- (b) all contributions made by the beneficiaries;
- (c) all sums received by the Board from such other sources as may be decided by the Central Government.

(2) The Fund shall be applied for meeting—

- (a) expenses of the Board in the discharge of its functions under section 22; and
- (b) salaries, allowances and other remuneration of the members, officers and other employees of the Board;
- (c) expenses on objects and for purposes authorised by this Act.

(3) No Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five per cent. of its total expenses during that financial year.

25 Budget.—The Board shall prepare, in such form and at such time each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the State Government and the Central Government.

26. Annual report.—The Board shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government and the Central Government.

27. Accounts and audit.—(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(2) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the auditing of the accounts of the Board under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board under this Act.

(3) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(4) The Board shall furnish to the State Government before such date as may be prescribed its audited copy of accounts together with the auditor's report.

(5) The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the State Legislature.

CHAPTER VI

HOURS OF WORK, WELFARE MEASURES AND OTHER CONDITIONS OF SERVICE OF BUILDING WORKERS

28. Fixing hours for normal working day, etc.—(1) The appropriate Government may, by rules,—

- (a) fix the number of hours of work which shall constitute a normal working day for a building worker, inclusive of one or more specified intervals;
- (b) provide for a day of rest in every period of seven days which shall be allowed to all building workers and for the payment of remuneration in respect of such days of rest;
- (c) provide for payment of work on a day of rest at a rate not less than the overtime rate specified in section 29.

(2) The provisions of sub-section (1) shall, in relation to the following classes of building workers, apply only to such extent, and subject to such conditions, as may be prescribed, namely:—

- (a) persons engaged on urgent work, or in any emergency which could not have been foreseen or prevented;
- (b) persons engaged in a work in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;
- (c) persons engaged in any work which for technical reasons has to be completed before the day is over;
- (d) persons engaged in a work which could not be carried on except at times dependant on the irregular action of natural forces.

29. Wages for overtime work.—(1) Where any building worker is required to work on any day in excess of the number of hours constituting a normal working day, he shall be entitled to wages at the rate of twice his ordinary rate of wages.

(2) For the purposes of this section, “ordinary rates of wages” means the basic wages plus such allowances as the worker is for the time being entitled to but does not include any bonus.

30. Maintenance of registers and records.—(1) Every employer shall maintain such registers and records giving such particulars of building workers employed by him, the work performed by them, the number of hours of work which shall constitute a normal working day for them, a day of rest in every period of seven days which shall be allowed to them, the wages paid to them, the receipts given by them and such other particulars in such form as may be prescribed.

(2) Every employer shall keep exhibited, in such manner as may be prescribed, in the place where such workers may be employed, notices in the prescribed form containing the prescribed particulars.

(3) The appropriate Government may, by rules, provide for the issue of wage books or wage slips to building workers employed in an establishment and prescribe the manner in which entries shall be made and authenticated in such wage books or wage slips by the employer or his agent.

31. Prohibition of employment of certain persons in certain building or other construction work.—No person about whom the employer knows or has reason to believe that he is a deaf or he has a defective vision or he has a tendency to giddiness shall be required or allowed to work in any such operation of building or other construction work which is likely to involve a risk of any accident either to the building worker himself or to any other person.

32. Drinking water.—(1) The employer shall make in every place where building or other construction work is in progress, effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked “Drinking Water” in a language understood by a majority of the persons employed in such place and no such point shall be situated within six metres of any washing place, urinal or latrine.

33. Latrines and urinals.—In every place where building or other construction work is carried on, the employer shall provide sufficient latrine and urinal accommodation of such types as may be prescribed and they shall be so conveniently situated as may be accessible to the building workers at all times while they are in such place:

Provided that it shall not be necessary to provide separate urinals in any place where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

34. Accommodation.—(1) The employer shall provide, free of charges and within the work site or as near to it as may be possible, temporary living accommodation to all building workers employed by him for such period as the building or other construction work is in progress.

(2) The temporary accommodation provided under sub-section (1) shall have separate cooking place, bathing, washing and lavatory facilities.

(3) As soon as may be, after the building or other construction work is over, the employer shall, at his own cost, cause removal or demolition of the temporary structures erected by him for the purpose of providing living accommodation, cooking place or other facilities to the building workers as required under sub-section (1) and restore the ground in good level and clean condition.

(4) In case an employer is given any land by a Municipal Board or any other local authority for the purposes of providing temporary accommodation for the building workers under this section, he shall, as soon as may be after the construction work is over, return the possession of such land in the same condition in which he received the same.

35. Creches.—(1) In every place wherein, more than fifty female building workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such female workers.

(2) Such rooms shall—

- (a) provide adequate accommodation;
- (b) be adequately lighted and ventilated;
- (c) be maintained in a clean and sanitary condition;
- (d) be under the charge of women trained in the care of children and infants.

36. First-aid.—Every employer shall provide in all the places where building or other construction work is carried on such first-aid facilities as may be prescribed.

37. Canteens, etc.—The appropriate Government may, by rules, require the employer—

- (a) to provide and maintain in every place wherein not less than two hundred and fifty building workers are ordinarily employed, a canteen for the use of the workers;
- (b) to provide such other welfare measures for the benefit of building workers as may be prescribed.

CHAPTER VII

SAFETY AND HEALTH MEASURES

38. Safety Committee and safety officers.—(1) In every establishment wherein five hundred or more building workers are ordinarily employed, the employer shall constitute a Safety Committee consisting of such number of representatives of the employer and the building workers as may be prescribed by the State Government:

Provided that the number of persons representing the workers, shall, in no case, be less than the persons representing the employer.

(2) In every establishment referred to in sub-section (1), the employer shall also appoint a safety officer who shall possess such qualifications and perform such duties as may be prescribed.

39. Notice of certain accidents.—(1) Where in any establishment an accident occurs which causes death or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such a nature as may be prescribed, the employer shall give notice thereof to such authority, in such form and within such time as may be prescribed.

(2) On receipt of a notice under sub-section (1) the authority referred to in that sub-section may make such investigation or inquiry as it considers necessary.

(3) Where a notice given under sub-section (1) relates to an accident causing death of five or more persons, the authority shall make an inquiry into such accident within one month of the receipt of the notice.

40. Power of appropriate Government to make rules for the safety and health of building workers.—(1) The appropriate Government may, by notification, make rules regarding the measures to be taken for the safety and health of building workers in the course of their employment and the

equipment and appliances necessary to be provided to them for ensuring their safety, health and protection, during such employment.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the safe means of access to, and the safety of, any working place, including the provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support;
- (b) the precautions to be taken in connection with the demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person and the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise;
- (c) the handling or use of explosive under the control of competent persons so that there is no exposure to the risk of injury from explosion or from flying material;
- (d) the erection, installation, use and maintenance of transporting equipment, such as locomotives, trucks, wagons and other vehicles and trailers and appointment of competent persons to drive or operate such equipment;
- (e) the erection, installation, use and maintenance of hoists, lifting appliances and lifting gear including periodical testing and examination and heat treatment, where necessary, precautions to be taken while raising or lowering loads, restrictions on carriage of persons and appointment of competent persons on hoists or other lifting appliances;
- (f) the adequate and suitable lighting of every workplace and approach thereto, of every place where raising or lowering operations with the use of hoists, lifting appliances or lifting gears are in progress and of all openings dangerous to building workers employed;
- (g) the precautions to be taken to prevent inhalation of dust, fumes, gases or vapours during any grinding, cleaning, spraying or manipulation of any material and steps to be taken to secure and maintain adequate ventilation of every working place or confined space;
- (h) the measures to be taken during stacking or unstacking, stowing or unstowing of materials or goods or handling in connection therewith;
- (i) the safeguarding of machinery including the fencing of every fly-wheel and every moving part of a prime mover and every part of transmission or other machinery, unless it is in such a position or of such construction as to be safe to every worker working on any of the operations and as if it were securely fenced;
- (j) the safe handling and use of plant, including tools and equipment operated by compressed air;
- (k) the precautions to be taken in case of fire;
- (l) the limits of weight to be lifted or moved by workers;
- (m) the safe transport of workers to or from any workplace by water and provision of means for rescue from drowning;
- (n) the steps to be taken to prevent danger to workers from live electric wires or apparatus including electrical machinery and tools and from overhead wires;
- (o) the keeping of safety nets, safety sheets and safety belts where the special nature or the circumstances of work render them necessary for the safety of the workers;
- (p) the standards to be complied with regard to scaffolding, ladders and stairs, lifting appliances, ropes, chains and accessories, earth moving equipments and floating operational equipments;
- (q) the precautions to be taken with regard to pile driving, concrete work, work with hot asphalt, tar or other similar things, insulation work, demolition operations, excavation, underground construction and handling materials;

(r) the safety policy, that is to say, a policy relating to steps to be taken to ensure the safety and health of the building workers, the administrative arrangements therefor and the matters connected therewith, to be framed by the employers and contractors for the operations to be carried on in a building or other construction work;

(s) the information to be furnished to the Bureau of Indian Standards established under the Bureau of Indian Standards Act, 1986 (63 of 1986), regarding the use of any article or process covered under that Act in a building or other construction work;

(t) the provision and maintenance of medical facilities for building workers;

(u) any other matter concerning the safety and health of workers working in any of the operations being carried on in a building or other construction work.

41. Framing of model rules for safety measures.—The Central Government may, after considering the recommendation of the expert committee constituted under section 5, frame model rules in respect of all or any of the matters specified in section 40 and where any such model rules have been framed in respect of any such matter, the appropriate Government shall, while making any rules in respect of that matter under section 40, so far as is practicable, conform to such model rules.

CHAPTER VIII

INSPECTING STAFF

42. Appointment of Director-General, Chief Inspector and Inspectors.—(1) The Central Government may, by notification, appoint a Gazetted Officer of that Government to be the Director-General of Inspection who shall be responsible for laying down the standards of inspection and shall also exercise the powers of an Inspector throughout India in relation to all the establishments for which the Central Government is the appropriate Government.

(2) The State Government may, by notification, appoint a Gazetted Officer of that Government to be the Chief Inspector of Inspection of Building and Construction who shall be responsible for effectively carrying out the provisions of this Act in the State and shall also exercise the powers of an Inspector under this Act throughout the State in relation to establishments for which the State Government is the appropriate Government.

(3) The appropriate Government may, by notification, appoint such number of its officers as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(4) Every Inspector appointed under this section shall be subject to the control of the Director-General or the Chief Inspector, as the case may be, and shall exercise his powers and perform his functions under this Act subject to general control and supervision of the Director-General or the Chief Inspector.

(5) The Director-General, the Chief Inspector and every Inspector shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

43. Powers of Inspectors.—(1) Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) enter, at all reasonable hours, with such assistants (if any) being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place where building or other construction work is carried on, for the purpose of examining any register or record or notices required to be kept or exhibited by or under this Act, and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a building worker employed therein;

(c) require any person giving out building or other construction work to any building worker, to give any information, which is in his power to give with respect to the names and addresses of the

persons to, for and whom the building or other construction work is given out or received, and with respect to the payments to be made for the building or other construction work;

(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the employer; and

(e) exercise such other powers as may be prescribed.

(2) For the purposes of this section, the Director-General or the Chief Inspector, as the case may be, may employ experts or agencies having such qualifications and experience and on such terms and conditions as may be prescribed.

(3) Any person required to produce any document or to give any information required by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to such search or seizure under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

CHAPTER IX

SPECIAL PROVISIONS

44. Responsibility of employers.—An employer shall be responsible for providing constant and adequate supervision of any building or other construction work in his establishment as to ensure compliance with the provisions of this Act relating to safety and for taking all practical steps necessary to prevent accidents.

45. Responsibility for payment of wages and compensation.—(1) An employer shall be responsible for payment of wages to each building worker employed by him and such wages shall be paid on or before such date as may be prescribed.

(2) In case the contractor fails to make payment of compensation in respect of a building worker employed by him, where he is liable to make such payment when due, or makes short payment thereof, then, in the case of death or disablement of the building worker, the employer shall be liable to make payment of that compensation in full or the unpaid balance due in accordance with the provisions of the Workmen's Compensation Act, 1923 (8 of 1923), and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

46. Notice of commencement of building or other construction work.—(1) An employer shall, at least thirty days before the commencement of any building or other construction work, send or cause to be sent to the Inspector having jurisdiction in the area where the proposed building or other construction work is to be executed, a written notice containing—

(a) the name and situation of the place where the building or other construction work is proposed to be carried on;

(b) the name and address of the person who is undertaking the building or other construction work;

(c) the address to which communications relating to the building or other construction work may be sent;

(d) the nature of the work involved and the facilities, including any plant and machinery, provided;

(e) the arrangements for the storage of explosives, if any, to be used in the building or other construction work;

(f) the number of workers likely to be employed during the various stages of building or other construction work;

- (g) the name and designation of the person who will be in overall charge of the building or other construction work at the site;
- (h) the approximate duration of the work;
- (i) such other matters as may be prescribed.

(2) Where any change occurs in any of the particulars furnished under sub-section (1), the employer shall intimate the change to the Inspector within two days of such change.

(3) Nothing contained in sub-section (1) shall apply in case of such class of building or other construction work as the appropriate Government may by notification specify to be emergent works.

CHAPTER X

PENALTIES AND PROCEDURE

47. Penalty for contravention of provisions regarding safety measures.—(1) Whoever contravenes the provisions of any rules made under section 40 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person who has been convicted of any offence punishable under sub-section (1) is again guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months or with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees or with both:

Provided that for the purposes of this sub-section, no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted:

Provided further that the authority imposing the penalty, if it is satisfied that there are exceptional circumstances warranting such a course may, after recording its reasons in writing, impose a fine of less than five hundred rupees.

48. Penalty for failure to give notice of the commencement of the building or other construction work.—Where an employer fails to give notice of the commencement of the building or other construction work under section 46, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

49. Penalty for obstructions.—(1) Whoever obstructs an Inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the Inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before, or being examined by, an Inspector acting in pursuance of his duties under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

50. Penalty for other offences.—(1) Whoever contravenes any other provision of this Act or any rules made thereunder or who fails to comply with any provision of this Act or any rules made thereunder shall, where no express penalty is elsewhere provided for such contravention or failure, be punishable with fine which may extend to one thousand rupees for every such contravention or failure, as the case may be, and in the case of a continuing contravention or failure, as the case may be, with an additional fine which may extend to one hundred rupees for every day during which such contravention or failure continues after the conviction for the first such contravention or failure.

(2) A penalty under sub-section (1) may be imposed—

(a) by the Director-General where the contravention or failure relates to a matter to which the appropriate Government is the Central Government; and

(b) by the Chief Inspector where the contravention or failure relates to a matter to which the appropriate Government is the State Government.

(3) No penalty shall be imposed unless the person concerned is given a notice in writing—

(a) informing him of the grounds on which it is proposed to impose a penalty; and

(b) giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter.

(4) Without prejudice to any other provision contained in this Act, the Director-General and the Chief Inspector shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while exercising any powers under this section, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(5) Nothing contained in this section shall be construed to prevent the person concerned from being prosecuted under any other provision of this Act or any other law for any offence made punishable by this Act or by that other law, as the case may be, or for being liable under this Act or any such law to any other or higher penalty or punishment than is provided for such offence by this section:

Provided that no person shall be punished twice for the same offence.

51. Appeal.—(1) Any person aggrieved by the imposition of any penalty under section 50 may prefer an appeal—

(a) where the penalty has been imposed by the Director-General, to the Central Government;

(b) where the penalty has been imposed by the Chief Inspector, to the State Government,

within a period of three months from the date of communication to such person of the imposition of such penalty:

Provided that the Central Government or the State Government, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring an appeal within the aforesaid period of three months, allow such appeal to be preferred within a further period of three months.

(2) The appellate authority may, after giving the appellant an opportunity of being heard, if he so desires, and after making such further inquiry, if any, as it may consider necessary, pass such order as it thinks fit confirming, modifying or reversing the order appealed against or may send back the case with such directions as it may think fit for a fresh decision.

52. Recovery of penalty.—Where any penalty imposed on any person under section 50 is not paid,—

(i) the Director-General or, as the case may be, the Chief Inspector may deduct the amount so payable from any money owing to such person which may be under his control; or

(ii) the Director-General or, as the case may be, the Chief Inspector may recover the amount so payable by detaining or selling the goods belonging to such person which are under his control; or

(iii) if the amount cannot be recovered from such person in the manner provided in clause (i) or clause (ii), the Director-General or, as the case may be, the Chief Inspector may prepare a certificate

signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue.

53. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

54. Cognizance of offences.—(1) No court shall take cognizance of any offence punishable under this Act except on a complaint—

- (a) made by, or with the previous sanction in writing of, the Director-General or the Chief Inspector; or
- (b) made by an office-bearer of a voluntary organisation registered under the Societies Registration Act, 1860 (21 of 1860); or
- (c) made by an office-bearer of any concerned trade union registered under the Trade Unions Act, 1926 (16 of 1926).

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

55. Limitation of prosecutions.—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the Director-General, the Chief Inspector, an office-bearer of a voluntary organisation or, as the case may be, an office-bearer of any concerned trade union.

CHAPTER XI

MISCELLANEOUS

56. Delegation of powers.—A Board may, by general or special order, delegate to the Chairperson or any other member or to the Secretary or any other officer or employee of the Board, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

57. Returns.—Every Board shall furnish from time to time to the Central Government and to the State Government such returns as they may require.

58. Application of Act 8 of 1923 to building workers.—The provisions of the Workmen's Compensation Act, 1923, shall so far as may be, apply to building workers as if the employment to which this Act applies had been included in the Second Schedule to that Act.

59. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No prosecution or other legal proceeding shall lie against the Government, any Board or Committees constituted under this Act or any member of such Board or any officer or employee of the Government or the Board or any other person authorised by the Government or any Board or committee, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made or issued thereunder.

60. Power of Central Government to give directions.—The Central Government may give directions to the Government of any State or to a Board as to the carrying into execution in that State of any of the provisions of this Act.

61. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

62. Power to make rules.—(1) The appropriate Government may, after consultation with the expert committee, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of persons to be appointed as members representing various interests on the Central Advisory Committee and the State Advisory Committees, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies under sub-section (3) of section 3 or, as the case may be, under sub-section (3) of section 4;

(b) the fees and allowances that may be paid to the members of the expert committee for attending its meetings under sub-section (2) of section 5;

(c) the form of application for the registration of an establishment, the levy of fees therefor and the particulars it may contain under sub-section (2) of section 7;

(d) the form of certificate of registration, the time within which and the conditions subject to which such certificate may be issued under sub-section (3) of section 7;

(e) the form in which the change in ownership or management or other particulars shall be intimated to the registering officer under sub-section (4) of section 7;

(f) the form in which an application for registration as a beneficiary shall be made under sub-section (2) of section 12;

(g) the document and the fee which shall accompany the application under sub-section (3) of section 12;

(h) the registers which the Secretary of the Board shall cause to be maintained under sub-section (6) of section 12;

(i) the benefits which may be given under sub-section (2) of section 14;

(j) the form in which register of beneficiaries shall be maintained under section 15;

(k) the terms and conditions of appointment, the salaries and other allowances payable to, and the manner of filling of casual vacancies of, the Chairperson and other members of the Board under sub-section (4) of section 18;

- (l) the terms and conditions of service and the salaries and allowances payable to the Secretary and the other officers and employees of the Board under sub-section (3) of section 19;
- (m) the time and place of the meeting of the Board and the rules of procedure to be followed at such meeting under sub-section (1) of section 20 including quorum necessary for the transaction of business;
- (n) the amount payable as house building loans or advances, the terms and conditions of such payment under clause (c), educational assistance under clause (e), medical expenses payable and the persons who shall be the dependent of the beneficiaries under clause (f), and the other welfare measures for which provision may be made under clause (h), of sub-section (1) of section 22;
- (o) the limits of grants-in-aid payable to the local authorities and employers under clause (b) of sub-section (3) of section 22;
- (p) the form in which and the time within which the budget of the Board shall be prepared and forwarded to Government under section 25;
- (q) the form in which and the time within which the annual report of the Board shall be submitted to the State Government and the Central Government under section 26;
- (r) the form of annual statement of accounts under sub-section (1), and the date before which the audited copy of the accounts together with the auditor's report shall be furnished under sub-section (4) of section 27;
- (s) the matters required to be provided under sub-section (1) of section 28 and the extent up to which, and the conditions subject to which, the provisions of that sub-section shall apply to the building workers under sub-section (2) of that section;
- (t) the registers and records that shall be maintained by the employer and the form in which such registers and records shall be maintained and the particulars to be included therein under sub-section (1) of section 30;
- (u) the form and manner in which a notice shall be exhibited and the particulars it may contain under sub-section (2) of section 30;
- (v) the issue of wage books or wage slips to building workers and the manner in which entries are to be made and authenticated in wage books or wage slips under sub-section (3) of section 30;
- (w) the types of latrines and urinals required to be provided under section 33;
- (x) the first-aid facilities which are to be provided under section 36;
- (y) the canteen facilities which are to be provided under clause (a) of section 37;
- (z) the welfare measures which are to be provided under clause (b) of section 37;
- (za) the number of representatives of the employer and the building workers under sub-section (1) of section 38 and the qualifications of safety officers and the duties to be performed by them under sub-section (2) of that section;
- (zb) the form of a notice of accident, other matters to be provided in this behalf and the time within which such notice shall be given under sub-section (1) of section 39;
- (zc) the rules to be made for the safety and health of building workers under section 40;
- (zd) the powers that may be exercised by an Inspector under clause (e) of sub-section (1) of section 43 and the qualifications and experience which the experts or agencies employed under sub-section (2) of that section shall possess and the terms and conditions on which such experts or agencies may be employed;
- (ze) the date on or before which wages shall be paid to a building worker under section 45;
- (zf) the matters which are required to be prescribed under clause (i) of sub-section (1) of section 46;

(zg) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or, where such Legislature consists of one House, before that House.

63. Saving of certain laws.—Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the building and other construction workers than those provided for them by or under this Act.

64. Repeal and saving.—(1) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Third Ordinance, 1996 (Ord. 25 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.