

R E P O R T

O F T H E

TRIPARTITE WORKING GROUP

O N

BUILDING AND CONSTRUCTION INDUSTRY

C H A P T E R - I

INTRODUCTION

1.1 The Tripartite Working Group for Building and Construction Industry was constituted by the Govt. of India vide Ministry of Labour's Resolution No. R-43011/2/82-LW, dated February 7, 1985. The Terms of Reference of the Tripartite Working Group are as under:

- (a) To identify the specific difficulties being faced by the Building and Construction Industry in complying with the social security legislation namely Employees' Provident Fund and Miscellaneous Provisions Act and the Scheme framed thereunder, the Employees' State Insurance Act and the Schemes, the payment of Gratuity Act, etc. and
- (b) To work out what type of special social security measures should be formulated for the workers in the Industry keeping in view the difficulties as in (a) above.

1.2 A copy of the Government Resolution is given as Appendix-I. A list showing the members constituting the Working Group is attached as Appendix-II. Later Miss Geetha of Tamil Nadu State Construction Workers' Union, Madras, Dr. (Miss) Anandalakshmi of Mobile Creches for Working Mothers' Children, New Delhi and Professor K.N. Vaid of the National Institute of Construction Management and Research were co-opted as members of the working group. The working group also had Shri T.S. Sankaran of National Labour Institute and Shri R.L. Kusalkar of National Federation of Labour Cooperatives as Special Invitees.

1.3 The Working Group met on April 22, 1985 and again on September 27, 1985. The presentations and documents submitted by the Employers' Organisations represented by the Builders' Association of India, various Trade Unions, the

representatives of the State Governments, the Employees' Provident Fund Organisation, the Employees' State Insurance Corporation, and other Organisations were discussed at these meetings. At the Second meeting of the Working Group it was decided that in order to work out meaningful social security measures for workers in Building and Construction Industry, it was necessary to make indepth studies of the various aspects of the industry. It was argued by all parties that the current statutory provisions applicable to construction industry were not adequate to ensure improvement of the labour conditions. Members were more or less agreed that the existing social security schemes were not workable but what could be workable did not come out unanimously. Similarly, some of the representatives of labour had been advocating setting up of construction labour boards for construction workers. At the meetings of the Working Group they made the same suggestions and contended that social security measures could not be meaningful unless they were brought in through such Boards. As the discussions developed, they realised that the structure, financing, functions and operating modalities of the Boards had to be thought more carefully than has been done. Thus a consensus emerged in the Working Group to set up the Sub-Groups to go into the specific aspects of the problems it was working on. Accordingly, at its second meeting, the Working Group divided itself into 3 Sub-Groups. The agenda for each Sub-Group is given below:

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- Sub-Group-I : What is the alternative to existing social security laws and what should be the form of the alternative social security scheme. The group may also consider the establishment of a Welfare Fund for Building and Construction Workers.
- Sub-Group-II : How the existing social security laws can be improved upon for higher effectiveness?
- Sub-Group-III : Boards for Building & Construction Workers. What are the strong points and the weak points, why the Mithadi Labour Act was not extended to Building and Construction Industry in Maharashtra, and what are the reasons for the failure of the similar Act in Gujarat?

1.4 Each Sub-Group was tripartite in nature and an expert was also attached to it. Sub-Group-I held 3 meetings, Sub-Group-II held one meeting and Sub-Group-III held 5 meetings. The recommendations made by the three Sub-Groups are given in Appendix-III (a), (b) and (c) (Appendix-III(c) without its Annexures). The entire Working Group discussed these reports at its meetings held on August 8, 1986 and September 19, 1986. Thereafter, the Working Group decided to constitute a Drafting Sub-Committee to prepare a Draft Report. The Drafting Committee met on October 10, 1986, November 26, 1986 and February 18, 1987. The draft prepared by the Drafting Committee was discussed at the meeting of the Working Group held on 21/5/87. A Meeting was called on 8/10/87 to further discuss the Report of the Drafting Committee as well as the recommendations made by some Members of the Group as a result of bipartite meeting held at Bombay from 27/5/87 to 29/5/87 (Appendix-IV). Divergent views were expressed by the members on the constitution of Tripartite Labour Boards.

The Workers' Representatives wanted more time to arrive at an agreed view. On receipt of the agreed views of the Workers' Representatives (Appendix-V) a meeting was held on 2/2/88 to finalise the Report.

1.5 Sub-Group-III made a study of the working of the Mathadi Labour Boards in Bombay. It met selected Officers of different Mathadi Boards, interviewed them and received exhaustive data on their working. The Study Group also met the authorities of the Bombay Port Trust and held discussions with them on the working of the Bombay Dock Labour Board. As the Mathadi Boards in Gujarat were not functioning, the Study Group did not visit them.

C H A P T E R - II

BUILDING & CONSTRUCTION INDUSTRY

I. MAGNITUDE

2.1 Building and Construction Industry is the second largest economic activity in India, next only to agriculture. Capital invested and manpower employed in this industry is much larger than any other industry. The importance of this industry can be judged from the fact that the capital outlay on construction in the successive Five Year Plans ranged from 36 to 50 percent.(1) It is estimated at 50 percent of the total capital outlay in the Seventh Plan.(2) Gross capital formation in construction industry at Rs. 15,445 crores accounted for 43 percent of the gross domestic capital formation in 1981-82.(3) According to an estimate, the economically active population engaged in construction in 1982-83 was 103.3 lakhs, of these, 11.87 lakhs were regularly employed in the corporate sector and big construction contractors, 23.87 lakhs worked for small contractors and other agencies like the Border Roads Organisation and the balance of 67.56 lakhs were casual employees. This did not include workers engaged in allied industries like brick kiln, sand dredging, quarrying, forest, etc.(4)

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- (1) S.B. Gandhi and C.M.S.Kutty, "Contribution of Construction to National Development", in NICMAR journal of Construction Management, Vol.I, April 1986, pp.37 & 43.
- (2) S.B.Chavan, Union Minister of Planning in Construction, Development and Civilization, NICMAR, Bombay 1984, page 12.
- (3) Ibid 2, page 12.
- (4) K.N. Vaid and C.M.S. Kutty' "Investment and Employment in Construction Industry", NICMAR journal of Construction Management, Vol.I April 1986, pp.53-54.

II. SCOPE

2.2 The vast field of activities in the Building and Construction Industry is not confined only to the construction of roads, bridges or buildings as is commonly understood. These activities include works undertaken underwater, above ground and underground as also hill tops and covers, housing, construction of dams, bridges, roads, tunnels, canals, power plants, industrial structures, pipe lines, cables and ropeways and erection of towers, chimneys, cables, etc. It also includes demolition of structures and maintenance services.

III. FEATURES

2.3 The industry has got its own peculiar characteristics. It is distinctly different from other conventionally established industries. The work is carried on at construction site and the workers move to new sites wherever the new project is situated. Invariably for almost all works, first the tenders are floated prescribing specifications, cost and time schedule, and firm commitments sought from the bidders. The lowest tender is accepted. The work is started on receipt of the work order. Thus the final outcome is contracted before it is actually constructed as the rates are fixed before the job is undertaken. This also makes the industry highly competitive.

2.4 The activity in the industry is generally mobile and each construction job is unique. The duration of different activities in the industry is also uncertain, ranging from very short to very long periods, depending

upon the nature and time frame for the completion of the project. The pattern and duration of the employment in the industry also varies according to the quantum and type of work involved in different categories, such as, earth work in excavation and embankment, tunneling and rock excavation, erection of formwork and scaffolding, fabrication and placement of reinforcement of steel, brick work and masonry and so on. The nature of work in the industry ranges from highly labour intensive to capital intensive jobs. The construction technology adopted and equipments used also keep varying from time to time and from job to job depending upon nature and size of the project.

2.5 In view of the above, the employment in construction industry is treated as casual and hence employment relations are generally not permanent. Many big employers do retain a complement of permanent employees. Also skill holding workers do get employed perennially. Gang Labour is common and 'Sardar Mukkadam' functions like now defunct "Jobber" in factories. The sub-contracting and piece workers system gives rise to layers of employment, with the apex level owner seldom knowing, who and how many and where the labour is working for him. The availability of unskilled labour is not a problem, however, semi-skilled, skilled and highly skilled manpower are in short supply.

2.6 As the construction work is generally of pre-determined duration, the nature of employment of workers employed

on sites is also dependent on the duration of the work, and hence the contractors engage contract labour through sub-contractors or labour contractors. Generally, there is no direct employer-employee relationship vis-a-vis the owner or the main contractor except for a small percentage of workers.

2.7 Sociologically, construction activity constitutes mid-way stage on the agriculture-industry continuum of workers' adjustment to industrialism. Agricultural labour pick up jobs on construction sites, return to land during harvesting and cropping seasons and the same people may or may not come back again to construction work. The migratory pattern of construction workers, the economic and social consequences of working at construction sites and a host of other factors create peculiar civic socio-economic, managerial and administrative problems that are rather unique to this industry.

2.8 This industry also constitutes the informal sector of economic activity. In view of the absence of any satisfactory regulatory/licensing requirements, entry into Building and Construction Industry is very easy. Capital required for entry into construction business is not of the magnitude which would be required for other industries. Consequently, contractors come, pick up work and keep moving. There are a very large number of small and big contractors engaged in building and

construction activity ranging from one man team to a multi-crore company employing many hundred persons. As would be expected, the birth and mortality rates of contracting firms are very high.

2.9 Construction Industry is characterised by a general lack of training facilities to improve the situation. Workers acquire skills as "under study" of other skilled workers. However, only a few have been able to do this and such workers enjoy some bargaining power. A vast majority of workers are unskilled and unorganised. Migration of workers to other activities and vice versa in large numbers is also significant. A large number of small contractors and sub-contractors are perhaps in no better position than workers.

2.10 Industrial and Technical training institutes have not given adequate attention to the industry - perhaps due to its unorganised nature. Construction specific technical training or contractor training programmes do not exist as yet. An inventory of skills required in discharge of construction jobs is yet to be made.

2.11 It may be noted that though construction is treated as an "Industry" under labour laws, it is not treated as such for financial, fiscal and taxation purposes.

IV. EMPLOYERS' PROVIDENT FUND DEPOSIT LINKED INSURANCE AND FAMILY PENSION SCHEMES

2.12 Employees' Provident Fund and Miscellaneous Provisions Act was made applicable to the Building and Construction Industry on October 21, 1980. The representative of the Provident Fund Commissioner stated that as on March 31,

1984, 1,248 construction establishments were brought under the Scheme covering 71,588 workers. According to the Builders Association of India, the main difficulties faced by contractors in implementing this act are as follows:

2.13 The temporary and mobile nature of construction activity does not ensure continuity of employment for workers as well as for employers at present. The work is discontinued for various reasons like lack of details/decision, change in design, shortage of material, etc. The workers keep on moving from one place to another and therefore, do not generally have permanent residences.

2.14 The construction activity is carried out by workers engaged either through contractors and/or through sub-contractors and the workers and contractors are not conversant with various provisions of law and book-keeping. The work is scattered over different work sites and it is difficult to ascertain the details about the workers. For many work sites, there is no transport and no communication. Even the inspectors, should they decide to visit the construction site, may have to depend on the courtesy of contractors for transportation and other facilities.

2.15 Contractors have frequently reported that workers do not want any deductions of their Provident Fund contributions from their wages. The problem is more acute in the case of the sub-contractors whose piece-rate workers do not agree to such deductions.

2.16 A labour contractor works for more than one principal contractor. He transfers his workers from one establishment to another as situation demands. It was stated that due to break in service, problems arise about the calculation of the period of qualifying service as well as the transfer of P.F. accumulation.

2.17 Where the construction work is seasonal, the same workers, sub-contractors or labour contractors may not be there to receive the benefit in the next season.

Workers, therefore, lose the continuity of benefits, and the recovery of contributions to be made by them becomes difficult. Under the P.F. Scheme (Rule 30), the responsibility of the payment of contribution vests with the Principal Employer and contractors have to collect the contributions and submit to the Principal Employer. In case where the Government is the Principal Employer, any lapse on the part of the contractor makes the Principal Employer, that is Government, responsible for the default in payment.

2.18 For entitlement to benefits under the Provident Fund Act, there are two essential requirements.

First, the beneficiary should have a permanent or long term employment. And two, he should have a permanent residential address. As vast majority of construction workers are unable to meet both the requirements and hence lose benefits. Only a small percentage of workers employed with large companies on more or less, permanent basis qualify for the benefits.

2.19 It was pointed out by the Builders Association of India that the fact that only 1,248 establishments have been covered with a total work force of less than 72,000 employees, shows that a proper survey of the peculiarities of labour in this industry was not done in regard to its conditions before the Act was implemented.

V. EMPLOYEES' STATE INSURANCE SCHEME.

2.20 The E.S.I. Act provides social security protection to the wage earners in the covered undertakings in the event of sickness, maternity, disability and death due to employment accident and occupational diseases. The Act is applicable to the factories as defined in the Act. However, the appropriate Government can extend the provisions of the Act to other classes of establishments—industrial, commercial, agricultural or otherwise.

2.21 To begin with, it was decided by the E.S.I. Corporation that the scheme should be extended to the construction workers who remain employed within the metropolitan towns and cities where the scheme was already in force on the presumption that it would be possible to provide medical and other facilities to these workers under the existing arrangements or by suitably amending them as long as they continue to work within the implemented areas where the provisions of the E.S.I. Act were already in force. It was also considered appropriate to extend the provisions of this Act to

the workers who are covered by the provisions of the Contract Labour (Regulation & Abolition) Act, 1970 so that contractors' establishment employing 20 or more persons come under the purview of this Act. However, the E.S.I.C. authorities and the State Governments encountered several difficulties in this regard. First, the provisions of the E.S.I. Act were brought into force area-wise after setting up necessary infrastructure for providing medical facilities and cash benefits. Construction workers falling within the area could be covered also but on migration out of the "Area" they go out of insurable employment, thus rendering the established infrastructure superfluous. Two, the covered workers may be employed intermittently on construction projects situated both within and outside the 'covered' areas. This situation creates lack of continuity in payment of contributions which will adversely affect their eligibility to benefits. Third, difficulties are likely to arise in determining the Principal Employer due to the contracting system and transferring of workers within and outside the covered areas. Four, due to the seasonality of work and labour migration, a contractor in the covered areas may 'Register' the workers under the Act but they may not return to him next season. Even the contractor might also shift out of the 'covered' area. Thus the very purpose of the Scheme

would be lost. These and similar other difficulties were anticipated by the State Governments and they were discouraged from going ahead with their plans to extend the Scheme to construction industry. In view of the inadequate response from the State Governments who were to extend the provisions of the Act to this sector, the scheme was not implemented. At present, the Act has not been implemented by any State/Union Territory for the Building & Construction Industry.

VI. GRATUITY

2.22 The Payment of Gratuity Act, 1972 provides for payment of gratuity to employees employed in factories, mines coalfields, plantations, railway companies, shops or other establishments and for matters connected therewith or incidental thereto. Gratuity is payable to an employee at the rate of 15 days wages per completed year of service for a maximum of 20 months provided he has completed minimum 5 years of continuous service with the employer.

2.23 In Building and Construction Industry, this Act is applicable only to those contractors who qualify as shops or commercial establishments. Further amongst the 'covered' contractors, only those workers qualify for gratuity who complete minimum 5 years of continuous service. Bulk of the workers employed on short term contracts, therefore, do not become eligible for the same.

2.24 No case need to be made to prove that only a handful of construction workers qualify to benefit under this Act. Barring those fortunate born on the permanent pay roll of big companies, the Act is hardly of any use to Construction Workers.

VII. HEALTH, HOUSING & WELFARE

2.25 No data are available on the housing conditions, health & welfare facilities for construction workers. Several State Governments, the Mobile Creche Organisation and few other agencies undertook quick surveys of health & welfare facilities and living and working conditions of workers at construction sites and submitted papers to the Working Group. All these submissions brought out that the provisions regarding housing in the Contract Labour (R&A) Act were complied with in letter only. Workers housing conditions at construction sites were dismal. They enjoyed no recreational and social welfare facilities. Provisions regarding drinking water, wash-room, rest rooms, canteens and other welfare and health facilities were not complied with.. Women workers and their children were the worst sufferers.

2.26 The studies brought out that, in general, non-compliance of the statutory provisions was the rule at most construction sites surveyed. These difficulties are also due to the fact that the workers in the Construction Sector are unorganised and do not have a stable mechanism to ensure compliance with various provisions of these laws. The Builders Association of India contended that these were sweeping generalisations and could be only partly true.

CHAPTER - III

ISSUES

3.1 The Working Group accepted that project based operations, contract system, labour migration and job changes were prevalent in construction industry. However, as the volume of construction activity grows and contracts become available on continuous basis, more and more contractors' firms may get established and become professionally managed. A greater use of technology in construction will create demands for skill formation amongst workers. All these developments augur well for stabilisation of labour force and may create conditions for their betterment. Nevertheless, something needs to be done for the vast shifting mass of migratory rural workers in search of employment who currently constitutes the army of casual unemployed or underemployed workers.

3.2. Addressing itself to the problems of the Building and Construction Industry as emanating from the peculiar nature of the industry, the Group identified certain issues for detailed discussions. The issues, as identified relate to constitution of Tripartite Labour Boards and their functions, Administration of Labour Laws, Constitution of Construction Labour Welfare Fund, Safety Aspects, Training Programmes, Surveys & Monitoring, etc. The question of the Constitution of Tripartite Boards and its connected issues are dealt

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with in the next Chapter; the views of the Working Group on other issues are discussed below:-

I. CONSTITUTION OF CONSTRUCTION LABOUR WELFARE FUND

3.3 In this context the Draft outline of the Construction Workers Welfare Fund Bill prepared by the First Sub-Group [Annexure-III to Appendix-III(a)] was considered in detail and it was unanimously agreed to adopt the Report of the 1st Sub-Group of the Study Group. The main points that emerge from the Report of the 1st Sub-Group are given below:-

(1) A Construction Labour Welfare Fund should be established from such date as the Central Government may appoint.

(2) The cess should be levied on the Project Construction Works carried out:

(i) through any contractor or Agent; and

(ii) without involving any Agency or Contractor.

Provided that small projects; i.e., the project or class of projects or the project involving cost to a specified limit, may be exempted from the levy of cess by the Central Government.

(3) The cess levied should not exceed 1% of the value of the Project.

(4) The fund shall be applied by the Central Government/ State Government to meet the expenditure incurred in connection with measures which, in the opinion of that Government are necessary or expedient to promote the welfare of persons employed in the

Building and Construction Industry and in particular:

- (a) to defray the cost of measures for the benefit of persons employed in the Building and Construction Industry directed towards-
- (i) improvement of public health and the prevention of disease and the provision for improvement of medical facilities;
 - (ii) improvement of water supplies;
 - (iii) the provision and improvement of education and vocational training facilities; and
 - (iv) the improvement of quality of life including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities.
- (b) to grant loan or subsidy to a State Government, a local authority or the principal employer of the Building and Construction Industry in aid of any scheme approved by the Central Government for any purpose connected with the Welfare of persons employed in Building and Construction Industry;
- (c) to pay annually grant-in-aid to such of the principal employer of the Building and Construction Industry and voluntary agencies, who provide to the satisfaction of the appropriate Government Welfare facilities of the prescribed standard for benefit of person employed in their industry. So, however, that the amount payable as grants-in-aid to any such employer shall not exceed-
- (i) amount spent by him in the provision of welfare facilities as determined by the Central/State Government or any person specified by it in this behalf; or

- (ii) such amount as may be prescribed, whichever is less.

3.4 The Working Group feels that the Labour Welfare Fund was feasible and there should be a Central Law for its constitution and administration. It further felt that if construction labour boards were to be constituted, the responsibility for administering the Fund should be undertaken by these Boards. In the absence of these Boards, this responsibility should be undertaken by the State Governments.

II. SAFETY

3.5 The Safety provisions in the construction industry are both inadequate and piece-meal. The relevant provisions of the Factories Act and the Mines Act apply to the corresponding segments of construction projects (work-shops are covered under the Factories Act and quarries under the Mines Act, etc.). Similarly, ISI Standards for building and civil works deal more with the structural aspects of the industry and make passing references to labour. Thus, safety in construction was a much neglected aspect. Accident rate in construction projects is reported to be much higher than in the manufacturing sector. The Tripartite Group felt that a comprehensive safety code for construction industry should be evolved and implemented effectively. Urgent legislative and administrative action is needed in this regard. ILO safety standards should be adopted to suit our requirements.

III. TRAINING

3.6 At present, there are no formal training programmes for imparting skills in construction trades to workers. Those construction workers who do manage to acquire skills, do so on the job by working under skilled tradesman over long periods.

TRIPARTITE CONSTRUCTION LABOUR BOARD

I. EMPLOYERS' VIEWS

4.1. A section of Employers argued that in view of the special features of the construction industry, the difficulties experienced in implementing various provisions of the existing social security legislation and multiplicity of labour laws applicable to this, by and large, non-formal sector, it was necessary to introduce special measures to ensure that the benefits reach workers. It put forward a documented proposal based on the following principal parameters:

4.1.1. A single, unified and comprehensive labour code for Building and Construction Industry to replace all existing labour laws applicable to it.

4.1.2. Tripartite Construction Labour Board (CLB) to administer and implement labour legislation, provide social security/welfare, and, settlement of labour disputes. CLB to replace all existing Government labour administration machinery.

4.1.3. Financing of the Board to be done, in the main, by a levy on project owners and deductions from the bills of works paid to contractors based on contract value.

4.2. The Draft Code Bill submitted by the BAI on the subject is given as Appendix-VI. Its main features are stated below:

4.2.1. There may be a simple, single and comprehensive labour Code, which should, inter-alia, provide for the following matters, viz :-

a. A system of registration of Principal Employers, contractors, sub-contractors, labour contractors and workers of all categories with the Construction Labour Board.

- b. Working conditions of labour.
- c. Health, Safety and Welfare measures.
- d. Service conditions, including minimum wages.
- e. Social Security measures, such as, Provident Fund, Gratuity, Retrenchment Compensation, Sickness Benefit, Maternity Benefit, Accident Compensation, etc.
- f. A machinery for settlement of labour disputes.

- 4.2.2. The proposed legislation may be brought in force in phases; i.e., different provisions, in different areas and on different dates as necessary.
- 4.2.3. The enforcement of the Code shall, primarily, be with the Construction Labour Board and under the supervision of the government.
- 4.2.4. The funds of the Board may comprise registration fees received, contributions of contractors, sub-contractor, labour contractor towards Provident Fund, deductions at not more than 1.5 percent of the total value of the bills of the works paid to contractors on the contracts undertaken by them, plus a levy of 1% on the value of project to be paid by the owners of the project; i.e., the Principal Employers.
- 4.2.5. The payments of labour; i.e., wages, overtime wages, bonus, retrenchment compensation, etc., shall be directly payable by the actual employer; i.e., contractor, including sub-contractors and labour contractors to the workers and the principal employer shall only be responsible as an Insurer for the same to the workers.
- 4.2.6. The social security benefit, such as Provident Fund, Gratuity, Medical benefit and Hospitalisation Scheme, Maternity benefit and Accident Compensation shall be

payable to the workers by the concerned Tripartite Construction Labour Board.

- 4.2.7. The following terms may be clearly and precisely defined under the proposed legislation;
- a. Principal Employer.
 - b. Contractor (including Sub-Contractor & labour contractor).
 - c. Building & Construction Industry.
 - d. Building & Construction Activity.
 - e. Works-Site.
- 4.2.8. The social security benefits to be prescribed under the legislation initially may be put at the minimum of the rates stipulated under the existing labour legislation on the subject. Likewise, and for, the same reasons, the penalties to be prescribed under the proposed legislation to begin with be the minimal.
- 4.3. Representatives of the trade unions differed with the BAI position. Some of the more important objections expressed by one or the other trade union representatives are as under :-
- 4.3.1. The proposal of a unified Labour Code for the construction industry was outside the scope of the terms of reference of the Working Group.
- 4.3.2. Construction Labour Boards without the right to regulate the industry and supply labour to contractors (on the lines of the Dock Labour Board) and the corresponding obligations of employers to that effect, will be toothless and they will remain ineffective.

- 4.3.3. If the State Government with their network of administrative machinery and years of experience found it difficult to implement labour laws satisfactorily, it was unreasonable to expect Construction Labour Boards to be better. They could, in fact, be more ineffective.
- 4.3.4. The dispute settlement function should not be allotted to the Boards. They contended that the dispute settlement function will create so much workload for the Boards that they will not be able to discharge any other function. Further, it will vitiate the working environment of Boards and inter-relationship of the Board Members.

II. TRADE UNIONS' VIEWS

- 4.4. The representatives of trade unions held positions that were congruent on basic issues, though there were differences in details. Tamil Nadu State Construction Workers' Union and CITU had also submitted Draft Bills on the setting up of Construction Labour Boards which may be seen at Appendix-VII and Appendix-VIII respectively, however, the agreed views of the Trade Unions are given in Appendix-V. The main points that emerge from the agreed views of the trade unions are:-

- (i) In order to provide social security to the construction labour it is necessary to regulate the employment through Construction Labour Board(s) to be constituted at Central, State, District and local levels by enacting a Central legislation.
- (ii) The legislation should provide for:
 - (a) The Constitution of the Tripartite Construction Labour Board at Central, State, District and local levels.

- (b) Compulsory registration of Principal employers, Contractors, Sub-Contractors and workers.
- (c) Recruitment of workers and regulation of employment through the Board.
- (d) Collection of Welfare Levy before the commencement of construction activity, Collection of wages and contributions for Provident Fund, ESI gratuity, Maternity Benefit and any other dues applicable will be done by the Board from the Principal Employer through the Board. Administration of social security, provision of housing, creche, educational facility, medical benefit and training schemes as well as regulation of Safety will be carried out by the Construction Labour Board.

4.5. The response of the Builders Association of India to the Trade Unions' agreed views is given in Appendix-IX. The Builders Association of India was totally opposed to the proposal of the labour representatives about regulating employment through Construction Labour Boards. It was pointed out by the Builders Association of India that the nature of the industry was changing. Use of up graded technology requires specialised services and skilled workers. It might not be possible for the board to have the necessary skilled workers registered with them. For example, the employer/contractor might need a special type of labour to complete the work which might not be available with the board at that particular time.

To sum up, after detailed discussions, the Group felt that it would have enhanced the utility of the Report if there was a consensus on the functions that could be assigned to the Construction Labour Board(s). This would have enabled the Working Group to make a positive recommendation in favour of the establishment of Board(s). However, in view of the differences persisting, the Working Group felt that the question should be left open to the Government to take a final decision.

CHAPTER V

RECOMMENDATIONS

After careful consideration of all the aspects, the Group makes the following recommendations :-

- (1) A Construction Labour Welfare Fund should be established from such date as the Central Government may appoint.
- (2) A Cess, not exceeding one percent of the value of the Project, should be levied on the Project owners of the Construction^{works} carried out :
 - (i) through any contractor or Agent; and
 - (ii) without involving any Agency or Contractor

Provided that small projects, i.e., the project or class of projects or the projects involving cost to a specified limit, may be exempted from the levy of cess by the Central Government.

(3) The Fund shall be applied by the Central Government/ State Governments to meet the expenditure incurred in connection with measures which in the opinion of that Govt. are necessary or expedient to promote the welfare of persons employed in the Building and Construction Industry and in particular:

(a) to defray the cost of measures for the benefit of persons employed in the Building and Construction Industry directed towards

- (1) the improvement of public health and the prevention of disease and the provision for improvement of medical facilities;

- (ii) improvement of drinking water supplies;
 - (iii) the provision and improvement of education and recreation facilities; and
 - (iv) the improvement of quality of life including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities.
- (b) to grant loan or subsidy to a State Govt., a local authority or the principal employer of the building and construction industry in aid of any scheme approved by the Central Govt. for any purpose connected with the welfare of persons employed in Building and Construction Industry.
- (c) to pay annually grant-in-aid to such of the principal employer of the Building and Construction Industry who provide, to the satisfaction of the appropriate Govt., welfare facilities of the prescribed standard for benefit of person employed in their industry. So, however, that the amount payable as grants-in-aid to any such employer shall not exceed -
- (1) amount spent by him in the provision of welfare facilities as determined by the Central/State Govt. or any person specified by it in this behalf; or
 - (ii) such amount as may be prescribed, whichever is less.

- (4) A comprehensive safety code for construction industry should be evolved and implemented effectively. Urgent legislative and administrative action is needed in this regard.
- (5) There is a need to prepare an inventory of major and basic construction trades and to organise training and skills formation programmes for workers. Construction Trades Training Institutes (CTTI) may be set up on a selective basis near the major project sites, more particularly in projects charged with the responsibility of rehabilitation of the project affected workers.
- (6) The Working Group recommends to the Central and State Labour administrative machineries as well as to the E.P.F. Organisation, ESIC and similar other agencies to establish a proper on line monitoring system to receive and process data and evaluate the reports and data pertaining to the working of various labour laws.
- (7) The Working Group is of the opinion that a series of case studies of what was happening at construction sites, working and living conditions of construction workers, organisation and working systems in construction agencies area and regional studies should be undertaken by competent and specialized institutions to fulfil vital data gaps. The Government should encourage such work through financial support and providing access to its own record to researchers.

- (8) There was consensus in the group that social security measures to provide old age security and medical benefits hitherto being provided under EPF, Gratuity and ESI Acts were necessary. However, there was a difference of opinion on the functions of the proposed Board(s) to administer social security. In view of the differences persisting on the constitution of Construction Labour Board(s), the Group recommends that a decision on its establishment and functions to be assigned to it may be left open to the Government. The Govt. has two proposals before it; viz.,
- (a) proposals submitted by BAI and (b) proposals as contained in the 'agreed views' of the workers. These proposals may be considered by the Govt. while taking a final view on this issue.
- (9) ITIs should introduce trades relevant to Construction sector.