

The Protection of Rights of Building and Construction Workers under the Himachal Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2008 & 2013: A Critical Study

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I. Introduction:

The word 'Unorganised' labour has not been defined so far in its exact meaning anywhere in the labour legislations. But it does not mean that this system of unorganised labour is new to our Indian society. In the early days unorganised labourers used to enter into an agreement with their employers under which they pledged their own property including their person in the form of personal service to the employer for a very nominal remuneration or even without remuneration in lieu of the debt. Such agreement remained in force as long as the debt was repaid by the labourers to their employers. Now the system of unorganised labour has been slightly changed with the changing circumstances of the society. In India, the gravity of the situation led to promulgation of an ordinance abolishing the system of slavery and bondage, which are crude form of unorganised labour in 1975 which was replaced a year after by the Bonded Labour System (Abolition) Act, 1976.³

Despite various social security legislations unorganised labourers are being exploited by the powerful employers at various instances. They have not been provided medical aid, proper wages, education, maternity, safety and welfare facilities. They have to toe the line marked by their employers and bow their heads before their employers in order to make them happy. They are not at liberty to enjoy their fundamental rights provided by the Constitution of India. For this discriminatory treatment between the organised and unorganised labour, there are various factors responsible for the existence of unorganised labour system. For instance, mass illiteracy, poverty, unequal distribution of land, social customs, socio-economic conditions and so on.⁴

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³ Majid, A., Legal Protection to Unorganized Labour, (2000), p. xvii

⁴ Ibid, p. xviii

The National Commission on Labour in India (1969) incorporated the following types of labour in the purview of the unorganised labour namely- contract labour, quarry labour, domestic labour, agricultural labour, casual labour, bedi and cigar workers and other unprotected labour. So far as the meaning of unorganised labour is concerned neither exhaustive definition has been given in this regard so far not it is possible because of various reasons. However, to understand the true meaning of unorganised labour system in its true perspective it is necessary to throw light on its meaning, origin and evolution through historical and legislative developments.⁵

II. Origin of Unorganised Labour in India Society:

The term 'unorganised labour' has been defined as those workers who have not been able to organise themselves in pursuit of their common interests due to certain constraints, such as casual nature of employment, ignorance and illiteracy, small and scattered size of establishments, etc.⁶

Ever since capitalist commodities began flowing into the market, they have left a tremendous impact on human relation in general and production relations in particular. The history of the growth of capital reveals that through all its phases, from primitive accumulation to factory production, there is continuous inner urge for better organisation, with two objectives, namely, generation of surplus, and its realisation through the market. Capital has also been acquiring an increasingly global character in which the world market and international institutional financing are playing a pivotal role.⁷ Unorganised labourers are working in unorganised sectors and they are living a country side. In our country unorganised labours is in existence in its various forms and are facing numerous problems. The main problem of unorganised labourers is related to socio economic exploitation of the have-nots by the haves of the society.

Unorganised manufacturing has been defined through some of its common features, such as, smaller size of production unit scattered over a wide area, use of a lower levels of technology with high labour absorption. The various unorganised industries are not a homogenous lot. The phenomenon of bondage has a long history of its existence. In India its origin is traced in ancient customs, traditional values of historical past. In early Aryan society debt-slavery was rampant. Not only was that but slavery as a result of defeat in gambling also practised in those days. During in Buddhist period, person who fell seriously ill offered themselves as slaves to the

⁵Ibid, pp. 1-2

⁶http://www.indg.in/social-sector/unorganised-labour/unorganized_labour.pdf

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⁷Singh, M., Labour Process in the Unorganised Industry: A Case Study of the Garment Study, (1991), p.79

physician if he was able to cure them. In this period, the father could in case of need abandon or sell or mortgage his son.⁸

During the 18th and 19th centuries agricultural slavery was commonly prevalent. The depressed and exterior castes were supposed to be degraded. Unorganised labour is the product of famine and floods precarious subsistence. The practice of donating daughter as gifts to the temples and illiteracy among masses were also significant factors which gave rise to the evil practice of unorganised labour system in India.⁹

III. Constitutional Measures vis a vis Unorganised Labour:

The Constitution of India guarantees equality of opportunities and status to men and women. It directs that women shall not only have equal rights and privileges as men have but also that the state shall make provision- both general and special for the welfare of women. Despite the above constitutional guarantee, women have been subjected to deprivation, brutality and extortion and exploited in unorganised sector.

India is the largest democratic country in the world. It is a country whose independence is founded on Gandhian principles that each citizen has inherent human dignity and worth. India has designated as a part of its fundamental constitutional guarantees equality before the law and prohibition of discrimination on the grounds of sex. In addition, the principles of state policy set out in the Constitution mandate, the right to work, the just and human work condition, maternity leave and living wage.¹⁰ Article 43 of the Constitution of India provides that "the state shall endeavour to secure by suitable legislation to all workers, agricultural, industrial or otherwise....conditions of work ensuring a decent standard of life...." In order to achieve these objectives several social security legislations have been enacted in India but they are primarily meant for industry workers. However, they are applicable to a very negligible section of rural population. Labour laws are, therefore to be modelled and remodelled to meet the needs of neglected class or unorganised labour.¹¹

Article 23 of Constitution of India prohibits beggar and other similar forms of forced labour. Various Acts were passed to eradicate the social evil of bondage but the Acts did not bear much fruits due to an attitude of

⁸Punekar, S.D., *Economic Revolution in India*, (1977), pp. 175-176

⁹Moorthy, D.K., *Rehabilitation of Freed Bonded Laborers*, (1976), p.8

¹⁰Cunningham, N., *Domestic Workers in India: A Case of Legislation Action*, JILL, (1994), p. 53

¹¹Srivastava, S.C., *Social Security for Agricultural Workers in India*, JILL, (1988), p. 485

indifference on the part of the executive and it went unabated till the year of 1975.¹²

The term 'unorganised' is very vague and therefore no specific definition in this regard is possible. However, we can say that all unprotected labours, who are working in unorganised sectors/ industries in our country.

IV. Comprehensive Legislation for Workers in the Unorganized Sector:

Keeping the commitment of the government towards unorganised sector workers the "Unorganised Sector Workers Social Security Bill, 2007" was introduced in the Rajya Sabha on 10th September, 2007. This Bill was referred to Parliamentary Standing Committee on Labour. The Committee submitted its report on 03.12.2007. The Standing Committee recommended certain modifications. On the basis of the recommendations of the Standing Committee, the Government moved official amendments. The amendments, inter-alia, include change in the title, definition of unorganized worker, inclusion of grievance redressal, inclusion of MPs in National Board and Members of State Legislature in State Board and insertion of new section for setting up of Workers Facilitation Centres. The Bill has been passed by both the Houses of Parliament. Finally, it became the Act on 30th December, 2008. The salient features of the Act are as under:

- Section (2) provides for the definitions, including those relating to unorganised worker, self-employed and wage worker.
- Section 3 (1) provides for formulation of schemes by the Central Government for different sections of unorganised workers on matters relating to (a) life and disability cover; (b) health and maternity benefits; (c) old age protection (d) any other benefit as may be determined by the Central Government.
- Section 3 (4) provides formulation of schemes relating to provident fund, employment injury benefits, housing, educational schemes for children, skill up gradation, funeral assistance and old age homes by the State Governments.
- Section 5 envisages constitution of National Social Security Board under the chairmanship of Union Minister for Labour & Employment with Member Secretary and 34 nominated members representing Members of Parliament, unorganised workers, employers of unorganised workers, civil society, Central Ministries and State Governments.
- Provision for adequate representation to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.

¹²Supra note 1, p. 16

- Section 6 has provision for constitution of similar Boards at the State level.
- Section 10 provides for eligibility criteria for registration as also the procedure for registration under the Act.

Apart from the above, a Health Insurance Scheme namely, the 'Rashtriya Swasthya Bima Yojana' for BPL families (a unit of five) in Unorganised Sector was formally launched on 1st October, 2007. The scheme became operational from 1st April, 2008 and benefit under scheme started accruing to the beneficiaries. The benefits under the scheme include:

- Smart card based cashless health insurance cover of Rs. 30,000 to a BPL family of five.
- All pre-existing diseases to be covered
- Hospitalisation expenses, taking care of the most of the illnesses.
- Transportation cost of Rs. 100 per visit with an overall limit of Rs. 1000/ per annum.

Similarly, the National Old Age Pension Scheme (Indira Gandhi National Old Age Pension Scheme) has been expanded to cover all BPL citizens above the age of 65 years with effect from 19.11.2007.

A. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

The Act covers several aspects of construction workers employments, including requiring employers to ensure the safety of their workers and protecting workers' rights to overtime pay and certain necessities on site, such as latrine, drinking water and first aid. Workers are required to register as a beneficiary for this Act. The Act has three committees established to oversee its enactment. They are the Central Advisory Committee, State Advisory Committee (which is established within the individual states) and the Expert Committee (established at the discretion of the states). The Act came into law on March 1, 1996, and applied to the whole of India. It was later amended by the Building and Other Construction Workers' Welfare Cess Rules Act of 1998.

i. Scope and Application of the Act

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

ii. Coverage

Building or other construction work means construction, alteration, repairs, maintenance, demolition or in relation to, building, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works, generation, transmission and distribution of power, waterworks, oil and gas installation, dams, canals.

reservoir, bridges etc. and such other works as may be specified in this behalf by the appropriate government, by notification.¹³

iii. Salient Features of the Act

- a. The Act is applicable to every establishment which employs or had employed on any day of the preceding 12 months, 10 or more workers in any building or other construction work.
- b. In the definition of establishment in the Act, individuals, who employ such workers in relation to their own residence the total cost of which is not more than Rs. 10 lakhs, are exempted.
- c. Constitution of Central and State Advisory Committee to advise the appropriate governments on matter arising out of administration of the law.
- d. Registration of establishments employing construction workers and appointment of registering officers.
- e. Constitution of Welfare Boards by the state governments and registration of beneficiaries under the fund and provision for their identity cards etc.
- f. Provision for temporary living accommodation to all building workers within or near the work site.
- g. Fixing hours of normal working day, weekly paid rest day, wages for overtime, provision for basic welfare amenities like crèches, first-aid, canteens etc. for the building workers.
- h. Making adequate provision for safety and health for construction workers. Provision for appointment of inspecting staff.

The Act seeks to provide relief to the unorganised workers engaged in building and the other construction works by making provision for regulating safety, health and other conditions of service.

iv. Welfare Board

Section 18 empowers the state governments to constitute state welfare boards. It may be mentioned here that the central governments is only empowered to enforce the Act in the central sphere establishments but not to constitute welfare boards. It is necessary to examine whether for effective enforcement central government should be empowered to constitute welfare boards.¹⁴

v. Welfare Funds

Section 24 of the Act, empowers the welfare boards to constitute welfare funds.

vi. Director General of Inspection/Chief Inspector of Inspection

Section 42 of the Act authorizes central government and the state governments to appoint a gazetted officer as Director General of inspection

¹³Sec 2(d), The Building and Other Construction Workers Act, 1996

¹⁴Section 18, The Building and Other Construction Workers Act, 1996

and Chief Inspector of inspection for laying down the standard of inspection and exercise the powers of inspector throughout India in relation to all establishments in central sphere and state sphere respectively. They can also hear and decide complaints filed before them by imposing penalties for violation of the provision of the Act/Rules made there under except for violations of provisions relating to safety, obstruction to inspectors and for failure to issue notice of commencement or completion of building and other construction work to inspector/registration officer. For the above violations, an inspector can file complaint in the court with the previous sanction of Director General or Chief Inspector of inspection as the case may be.¹⁵

vii. Appeal

The Act also provides for appeal against penalty imposed by the Director General or Chief Inspector of Inspection in their respective spheres, as the case may be, within appellate authority, after giving an opportunity of being heard, may confirm, modify or reverse the order appealed against or remand the case for fresh decision.¹⁶

viii. Cognizance of Offence

A major departure in the enforcement of this law has been made by providing for filing of complaint even by office-bearers of voluntary organizations registered under Societies Act, or office bearers of concerned trade union registered under Trade Union Act.

ix. Limitation

Under section 55 of the Act, a complaint should be filed within 3 months from the date on which the offence came to the notice of Director General/ Chief Inspector, office bearers of voluntary organizations or trade unions, as the case may be.

The H.P. Cabinet in November, 2008, in its meeting chaired by Chief Minister Prem Kumar Dhumal, approved the Himachal Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Services) Rules, 2008, which are applicable to all establishments engaged in construction activities employing 10 or more workers undertaking construction including private buildings valued at over Rs. 10 lakhs. All construction workers in the age group of 18 to 60 have been brought under the provisions of the Rules.

The welfare of working class has been the priority areas of the present Government. This was indicated by the Government soon after assuming power by enhancing the quantum of daily wages substantially. The recent decision to constitute 'Workers Welfare Board' is another major cornerstone

¹⁵ Section 42, The Building and Other Construction Workers Act, 1996

¹⁶ Section 9, The Building and Other Construction Workers Act, 1996

which reflects the deep commitment and concern of the State Government towards the welfare of the working class. The number of the workmen and the labourers both in the public and private sectors has registered an upward trend vis-à-vis the expansion and growth of industrialization, apart from setting up of numerous hydel power projects in the State. To ensure adequate welfare of the labourers working in unorganized sectors in the State, the Workers Welfare Board would emerge as a safety cover to the labourers engaged in different construction activities. Worth mentioning here is, that the State is heading towards becoming an 'Industrial Hub' and in present circumstances, it becomes essential to cater to the welfare needs of the labourers engaged in construction activities. The Department of Labour and Employment under 'Building and Other Construction Workers Welfare (Regulation of Employment and Conditions of Service) Act', 1996 has framed Employment and Service Rules in December 2008 for the well-being of the labourers employed in various projects under construction in the State. It has been made mandatory for the employers to get their establishments and number of 'Building Workers' employed, to get registered with Labour and Employment department under the provisions of the Act. Even the migratory labourers working across the State would be covered under these rules. Every establishment employing fifty or more building workers shall prepare a written statement of policy in respect of safety and health of the employees and submit the same for approval to the Chief Inspector, Inspector of building and construction or any other officer as designated by the State Government. Though the scheme has been implemented in neighbouring State of Haryana and elsewhere in few States of the Country, Himachal Pradesh is completely devoted and concerned to execute it in right perspective. However, the welfare of the labourers would be met with the cess on those constructing houses, buildings or projects incurring expenditure of more than rupees 10 lakh. To generate income for the Board, set up for the welfare of the unorganized labour, the Government has proposed to levy a cess of one per cent of the total cost of developmental works being carried out by the public and private builders including departments, as per the policy laid down by the Centre. Interestingly, the Government intends to collect around 45 crore by means of cess in the year 2009-10 out of which, there is a proviso of spending around 41 crore on the welfare measures for the labour class. As per the initial survey, there are roughly 29, 92,461 manual workers in the State and nearly 50 thousand labourers both from HP and other States are engaged in Hydel generation sector. To derive the benefits of the Welfare Board, all labourers including carpenters, masons and casual labourers between 18 to 60 years of age can get themselves registered with the board. Amongst numerous welfare schemes thought upon to be extended to the labourers in current financial year, includes pension to nearly 30 thousand workmen after three years at

the rate of rupees 500, thereby incurring 18 crore as such. The Board further intends to provide medical allowance, initially to 5000 workmen with an outlay of fifty lakh. Similarly, an amount of rupees 2 crore fifty lakh has been premeditated, as ex-gratia grant in case of paralysis, tuberculosis, accident etc. to the registered labourers. The manual workers can also get a House loan to the tune of 50 thousand. Likewise, the Board has been considering for providing financial aid in case of purchasing work appliances, on the education of the children of the registered labourers and for meeting out expenses on funeral rites as per the guidelines contained in the rules.¹⁷

This notification depicted the State Government's intention of achieving huge attractive objectives. But with the passing years, the State Government has been non-serious in the implementation of the labour laws dealing with construction workers.

B. Himachal Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2008

In exercise of the powers conferred by section 62 and section 40 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (27 of 1996), the Governor, Himachal Pradesh, after consultation with the Expert Committee constituted under section 5 of the said Acts, hereby makes the following rules namely:

Section 5 of the rules deals with the duties and responsibilities of employers, employees and other etc. According to this it shall be the duty of every employer who is undertaking any of the operation or works related to or incidental to building or other construction work to which these rules apply; to comply with such of the requirements of these rules as are related to him. It shall be the duty of every employer not to permit an employee to do anything not in accordance with the generally accepted principles of standard safe operating practices connected with building and other construction work as specified by the State Government. It shall be the duty of every employer not to allow lifting appliance, lifting gear, lifting device, transport equipment, vehicles or any other device or equipment to be used by the building workers which does not comply with the provisions given in these rules. It shall be the duty of the employer to maintain the latrines, urinals, washing facilities and canteen in a clean and hygienic condition. The canteen shall be located in a place away from the latrines and urinals and

¹⁷Notification issued by the Dept. of Information and Public Relations, Govt. of H.P. on 23rd May, 2009

polluted atmosphere and at the same time be easily accessible to the building workers.¹⁸

Section 8 deals with duties and responsibilities of workers. It shall be the duty of every building worker to comply with the requirements of such of these rules as relate to him, and Act and co-operate in carrying out the requirements of these rules and if he discovers any defects in the lifting appliance, lifting gear, lifting device, concerning any transport equipment or other equipment, to report such defects without unreasonable delay to his employer or foreman or other person in authority. It shall be the duty of the building worker to keep the latrines, urinals, washing points, canteen, and other facilities provided by the employer for securing his welfare in a clean and hygienic condition.¹⁹

Section 10 deals with the constitution of state advisory committee. The State Building and Other Construction Workers Advisory Committee (hereinafter referred to as the State Advisory Committee) shall consist of:²⁰

(a)	A Chairperson to be appointed by the State Government	Chairperson
(b)	Two Members of the Legislative Assembly of Himachal Pradesh to be elected from the Himachal Pradesh Vidhan Sabha	Members
(c)	A Member to be nominated by the Central Government	Official Member
(d)	The Chief Inspector of Inspections of Building & Construction	Official Member
(e)	The Chief Inspector of Factories	Member ex- officio
(f)	Three members representing employers	Non- Official Members
(g)	Three members representing the building and other construction workers to be nominated by the State Government	Non- Official Members
(h)	Three members Secretary	Official Members

¹⁸Section 5, Himachal Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2008

¹⁹Ibid, Section 8

²⁰Ibid, Section 10

	level Secretary (Labour)/ Secretary (PWD)/ Secretary (MPP & Power)	
(i)	Two members to be nominated by the State Government one representing State Level Associations of Architects or Engineers and one representing Accident Insurance Institutions.	

An employer shall ensure at a construction site of a building or other construction work that adequate measures are taken to protect building workers against the harmful effects of excessive noise or vibration at such construction site and the noise level in no case exceeds the limits laid down.²¹

An employer shall ensure at a construction site of a building or other construction work that in case more than five hundred buildings workers are employed at such construction site emergency action plan to handle the emergency like-²²

- a. fire and explosion;
- b. collapse of lifting appliances and transport equipment;
- c. collapse of building, sheds or structures etc.
- d. gas leakage or spillage of dangerous goods or chemicals;
- e. drowning of building workers, sinking of vessels; and
- f. Landslides getting building worker buried, floods, storms and other natural calamities, is prepared and submitted for the approval of the Chief Inspector of Inspections of Building & Construction.

An employer shall ensure at a construction site of a building or other construction work that, no building worker lifts by hand or carries overhead or over his back or shoulder any material, article, tool or appliances exceeding in weight the maximum limits set out in the following table:-

Person Maximum Weight Load

Adult man	55. 00 K.G.
Adult women	30. 00 K.G.
Adolescent male	30. 00 K.G.
Adolescent female	20. 00 K.G.

Unless aided by any other building worker or a mechanical device.²³ Suitable personal protective equipment for the protection of eyes shall be provided by an employer and used by the building worker engaged in

²¹Ibid, Section 34

²²Ibid, Section 36

²³Ibid, Section 38

operations like welding, cutting, chipping, grinding or similar which may cause hazard to his eyes at a building or other construction work.²⁴

Whenever any building or other construction work is being carried on, or is located in close proximity to a road or any other place where any vehicular traffic may cause danger to building workers, the employer shall ensure that such building or other construction work is barricaded and suitable warning signs and lights displayed or erected to prevent such danger and if necessary, he may make a request in writing to the concerned authorities to control such traffic.²⁵ The employer shall ensure at a construction site of building or other construction work that where, on or adjacent to the workplace of any construction site to which these rules apply, there is water into which a building worker employed for work on such site is, in the course of his employment, may fall and has the risk of drowning, suitable rescue equipment is provided and kept in an efficient state for ready use and measures are taken to arrange for the prompt rescue of such building worker from the danger of drowning.²⁶

The employer shall ensure at a construction site of a building or other construction work that Barricades and warning signs are erected along every side throughout the length and breadth of a building or other construction work to be demolished to prevent unauthorised persons from entering into the site of such building or other construction work during demolition operation.²⁷ The employer shall ensure at a construction site of a building or other construction work that every safe net is of adequate strength, made of sound material and is suitable for use and conforms to the relevant national standards; the responsible persons for maintenance of safety net and their use ensures safe fixing of such safety nets and provides such safety nets with suitable and sufficient anchorage so that the purposes for which safety net is intended for use, is served.²⁸

The employer shall ensure at a construction site of a building or other construction work that a building worker who is employed for a work involving such risk or hazards, inherent in such work as the Chief Inspector of inspections of Building & Construction considers appropriate for the periodical medical examination of such worker, is medically examined at such intervals as the Chief Inspector of Inspections of Building & Construction may direct from time to time. No building worker is charged for the medical examination.²⁹ The employer shall ensure at a construction

²⁴Ibid, Section 45

²⁵Ibid, Section 48

²⁶Ibid, section 87

²⁷Ibid, Section 117

²⁸Ibid, Section 179

²⁹Ibid, Section 223

site of a building or other construction work that an ambulance van is provided at such construction site or an arrangement is made with a nearby hospital for providing such ambulance van for transportation of serious cases of accidents or sickness of the building workers to the hospital promptly and such ambulance van is maintained in good repair and is equipped with standard facilities.³⁰

No building worker employed in building or other construction work shall be required or allowed to work for more than nine hours a day or forty-eight hours a week. No building worker employed in building or other construction work shall be required or allowed to work continuously for more than five hours unless he had an interval of rest of not less than half an hour. The working day of a building worker employed in building or other construction work shall be so arranged that inclusive of the intervals of rest, if any shall not spread over more than twelve hours on any day. When a building worker works in any building or other construction work for more than nine hours on day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at double the ordinary rate of wages.³¹ In every place wherein not less than two hundred and fifty building workers are ordinarily employed, the employer of such building workers shall provide an adequate canteen in the manner as specified in this rule for the use of such building workers. The canteen shall consist of a dining hall with furniture sufficient to accommodate building workers using such canteen, a kitchen, store-room, pantry and washing places separately for building workers and for utensils.³²

The Himachal Pradesh Building and Other Construction Workers Welfare Board was mentioned under chapter 30 of the rules. The Board shall consist:³³

- a. a Chairperson appointed by the Government
- b. a member nominated by the Central Government
- c. Not more than five persons representing the building and other construction works appointed by the State Government
- d. Not more than five persons from among the employers of construction and building workers appointed by the Government
- e. Not more than five members representing the State Government of whom one shall be the Chief Inspector of Inspection of Building and Construction of the State, one shall be a representative of Finance Department, one shall be a representative of Law Department, one

³⁰Ibid, Section 227

³¹Ibid, Section 234

³²Ibid, Section 244

³³Ibid, Ss. 250 & 251

shall be a representative of Labour Department and one shall be a representative of Welfare Department.

The Board shall be responsible for-³⁴

- a. all matters connected with the administration of the fund;
- b. laying down policies for the deposits of the amount of the fund;
- c. submission of annual budget to Government for sanction;
- d. submission of annual report to Government on the activities of the Board;
- e. proper maintenance of accounts;
- f. collection of contribution to the fund and other charges.

The Board may on application by a member, sanction an amount not exceeding Rs. 50,000/- (Rupees fifty thousand only) as advance for the outright purchase of a house or for the construction of house.³⁵ The Board may sanction an amount of Rs. 1,000/- (Rupees one thousand only) to the nominees/ dependents of a deceased member, towards funeral expenses. The Board may sanction an amount of Rs. 15,000/- to the nominees/ dependents of a member towards death benefit, in case of death. If the death is due to an accident, during the course of employment, the nominee/ dependents of the member shall be given Rs. 50,000/- (Rupees fifty thousand only) towards death benefit.³⁶

The Building workers having continuous membership for 3 years shall be eligible to get financial assistance of Rs.5, 100/- (Rupees five thousand & one hundred only) for the marriage of their children. A female member of this Fund is also eligible to for this assistance for her own marriage. This assistance shall be sanctioned for the marriage of two children of the beneficiary.³⁷

C. Himachal Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Amendment Rules, 2013

In exercise of power conferred by section 62 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, the Governor of Himachal Pradesh, after consultation with the Expert Committee make the following rules further to amend the Himachal Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Amendment Rules, 2008 on 9th May, 2013.

These rules are called as the Himachal Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of

³⁴Ibid, Section 261

³⁵Ibid, Section 274

³⁶Ibid, Ss. 277&278

³⁷Ibid, Section 282

Service) Amendment Rules, 2013. The amendments were made in section 266, 267, 278 and 280. According to the amended section 280 the board may sanction financial assistance for the medical treatment of beneficiaries up to Rs. 5000/- only per annum subject to the production of medical bills. Further in sub rule (1) of Section 281 the amendments were made that the board may provide financial assistance for education of the children of members at the following rates. From 1st to 5th standard Rs. 1000/- per annum, from 6th to 8th standard 1200/-, from 9th to 10th standard Rs. 1500/- and in 11th and 12th up to 2000/-. For B.A. 2500/- and for B.Sc., B.Com, BBA Rs. 3000/-. In Post-Graduation Rs. From 3500- 4000 were provided to them. For Ph.D. and research courses Rs. 15000 will be provided.

Further the amendment was made in section 282 in which the financial assistance for marriage is increased from Rs. 5100/- to Rs. 21,000/-. Another amendment was made in section 283 (B) in which provision for bicycle for ladies was inserted for lady workers. Further in 283 (C) provisions was inserted for kerosene and diesel stoves allowance of Rs. 1500/- on production of purchase bill.

V. Conclusion and Suggestion:

Many of the laws mentioned above apply to the unorganised sector also. In some cases a separate notification may be necessary to extend the application of a particular law to a new sector. It is useful to notice that some pieces of legislation are more general in character and apply across the board to all sectors. The Trade Union Act 1926, The Minimum Wages Act 1948, The Contract Labour (Regulation and Abolition) Act 1970, The Workman's Compensation Act 1923, and The Payment of Wages Act 1936 are examples of this type. In certain cases, even the IDA 1947 would be included. In addition to the above there are special sectoral laws applicable to particular sectors of the unorganised. Under this category are laws like the Building and Construction Workers Act 1996, the Bonded Labour System (Abolition) Act 1976, The Interstate Migrant Workers Act 1979, The Dock Workers Act 1986, The Plantation Labour Act 1951, The Transport Workers Act, The Beedi and Cigar Workers Act 1966, The Child Labour (Prohibition and Regulation) Act 1986, and The Mine Act 1952. Broadly speaking these sectoral laws either abolish or prohibit an abominable practice like bonded labour or they seek to regulate exploitative conditions by regulating working hours and conditions of service.

A recent trend has been to seek the creation of a welfare fund through the collection of a levy from which medical benefits or pension provisions are made. Workers and management may contribute and attempt to set up tripartite boards for implementation of welfare benefits.

In some states like Kerala a large number of such boards have already been set up to take care of welfare in different sectors of employment. Another contemporary effort is to provide an umbrella statute to take care of employment conditions and social welfare benefits for all unorganised sections. Common central legislation for all agricultural workers is also on the anvil. Many powers are vested in quasi-judicial authorities, labour courts, and magistrates' courts. The power of review is in the High Courts and finally in the Supreme Court. The general experience, with the occasional exception, is unbearable delay. Even where statutes prescribe reasonable time limits, they are not adhered to. Frustration with labour-related justice is heightened by these unlimited delays. A case of dismissal takes almost ten years for the labour court to decide and if the parties decide to seek judicial review in the higher courts there can be unlimited delay.

For the unorganised sector a renewed attempt to focus on the core labour standard identified by the ILO in its Declaration on Fundamental Rights at Work would still be worthwhile, especially if we take steps to ensure the implementation of the first of those core labour standards namely the freedom of association and the right to collective bargaining. It is only through the organisation of potential beneficiaries that we can hope for some benefits at least to percolate down into the hands of the needy.