



# Entitlements of Seasonal Migrant Construction Workers to Housing, Basic Services and Social Infrastructure in Gujarat's Cities: A Background Policy Paper

Renu Desai

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A Background Policy Paper**

Renu Desai  
(Centre for Urban Equity, CEPT University)

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CUE was established at CEPT University in 2009, evolving from the Urban Poverty Alleviation (UPA) Cell established in 2008. CUE advocates a human-centered and equitable urban development paradigm. CUE undertakes research and advocacy; conducts training and capacity-building; imparts education; and networks with stakeholders on various aspects of human settlements. CUE is recognized as a National Resource Centre (NRC) by the Ministry of Housing and Urban Poverty Alleviation (MHUPA), Government of India.

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## Abstract

Seasonal migrant workers contribute significantly to the national, State and urban economy, and yet they remain on the extreme margins in their urban work destinations, living in dismal housing conditions on construction sites or in the most vulnerable informal settlements and tenure arrangements off-site. Access to basic services like water and sanitation is lacking or profoundly inadequate in most instances while access to social infrastructures of health and education for their children is a major challenge. This paper examines the legislative, policy and governance context that shapes the entitlements of seasonal migrant construction workers to housing, basic services and social infrastructures in Gujarat's three largest cities of Ahmedabad, Surat and Vadodara with a view towards better understanding the reasons for their marginalized living conditions in the city and the constraints and possibilities for improving them. Expanding and realizing these entitlements is a crucial step in recognizing seasonal migrants as citizens as well as making urbanization more inclusive.

The paper comprises of two main sections. The section on labour regulations discusses four labour laws: the Contract Labour Act 1970, the Inter-State Migrant Workers Act 1979, the Building and Other Construction Workers Act 1996 (BOCW Act), and the Building and Other Construction Workers Welfare Cess Act 1996. This includes examining the experience and status vis-à-vis the three tasks that are central to the implementation of the BOCW Act—the regulation of employers and construction sites, the registration of construction workers and the implementation of welfare schemes for construction workers—and discussing their implications vis-à-vis access to decent housing, basic services and social infrastructure for the workers and their families. The section also briefly considers two additional instruments for the regulation of public and private construction sites—the contractual conditions put forth by public authorities which regulate construction sites of public projects and the development permission process of the city authorities which regulate building construction in the city by developers/contractors—and discusses their implications for ensuring that migrant construction workers and their families are provided decent housing, basic services and social infrastructure in the city.

The section on urban policies discusses four sets of policies and programmes. First, it examines the mainstream slum and housing policies and programmes for the urban poor which are not explicitly targeted at migrant labour but have an implicit stance towards this group. This includes the Basic Services to the Urban Poor (BSUP) sub-mission of the Jawaharlal Nehru National Urban Renewal Mission (JNNURM); the Rajiv Awas Yojana (RAY); the In-Situ Slum Redevelopment (ISR) and Affordable Housing in Partnership (AHP) programmes of the Pradhan Mantri Awas Yojana Housing for All (Urban); and the Gujarat government's SRS-type projects under its 2010 regulations and 2013 policy and Mukhyamantri Gruh Awas Yojana (MGAY). This also briefly examines programmes of infrastructure for basic services—such as AMRUT and Swachh Bharat Mission—to see whether they seek to expand access to basic services amongst migrant workers. Second, it looks at the recent preparation of a draft national urban rental housing policy and some recent initiatives by municipal authorities to create rental housing. Third, it examines the interventions around setting up homeless shelters in cities. These two approaches—rental housing and homeless shelters—are marginal to the overall approach to housing for the urban poor but are more directly relevant for migrant construction workers. Fourth, it briefly outlines some of the welfare programmes for food, health and education that are applicable across the country/State to look into how they facilitate and/or constrain access to these entitlements for migrant construction workers and their family members in the city.

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## 1. Introduction

“Urban policies, backed by powerful urban electorates, are reluctant to recognise the economic contribution made by migrant labour; many policies, especially on housing, do not simply neglect migrants, but actively discriminate against them.” (Deshingkar et al 2008)

Seasonal migrant workers contribute significantly to the national, State and urban economy, and yet they remain on the extreme margins in their urban work destinations.<sup>1</sup> In a landmark 2005 article titled “On the Margins in the City: Adivasi Seasonal Labour Migration in Western India,” the authors pointed out that the physical expansion of Gujarat’s industrial growth poles can be attributed directly to the seasonal flow of casual labourers of adivasi (tribal) backgrounds from upland villages in the borderlands of south Rajasthan, western Madhya Pradesh and eastern Gujarat to work in urban construction and related industries (Mosse et al 2005). They estimated these flows as comprising of 10,000-15,000 adivasis to each of Gujarat’s major cities every year. Seasonal and circular migrants from other States such as Bihar, Orissa, Jharkhand and Uttar Pradesh also come to Gujarat’s cities to work as construction labour. These migrant workers live in dismal housing conditions on construction sites or in the most vulnerable informal settlements and tenure arrangements off-site. Access to basic services like water and sanitation is lacking or profoundly inadequate in most instances while access to social infrastructures of health and education for their children is a major challenge. This paper examines the legislative, policy and governance context that shapes the entitlements of seasonal migrant construction workers to housing, basic services and social infrastructures in Gujarat’s three largest cities of Ahmedabad, Surat and Vadodara with a view towards better understanding the reasons for their marginalized living conditions in the city and the constraints and possibilities for improving them. Expanding and realizing these entitlements is a crucial step in recognizing seasonal migrants as citizens as well as making urbanization more inclusive.

India’s vast construction industry is a highly labour-intensive sector and is the second largest employer after agriculture. According to the Planning Commission’s Twelfth Five Year Plan document, employment in the construction sector in India observed a steady increase from 14.5 million in 1995 to 31.5 million in 2005 to 41 million in 2011. This comprises all personnel including engineers, technicians, foremen, clerical staff, and skilled and unskilled workers. The number of skilled workers in 2011 was 3.73 million constituting 9.1 per cent of the total workforce while the number of unskilled workers was 34.2 million representing 83.3 per cent of the total workforce. Most of the workers are mostly informal / unorganized labour with a predominance of migrant labour which increases their vulnerability (Planning Commission 2012). These figures include construction workers in both urban and rural areas, and while there are no disaggregated figures for urban areas, estimates for some metropolitan cities give us a sense of the scale of their presence in the city. The number of construction

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<sup>1</sup> **This paper is concerned with seasonal migrant labour but henceforth for the purpose of ease, I refer to them as simply migrant labour.** Estimates of seasonal migrants in India vary widely from 40 million (Srivastava 2012b) to 100 million (Deshingkar & Akter 2009). Official data come nowhere close to these estimates due to definitional problems. Census does not capture seasonal migration at all. The NSSO 2007-2008 round estimated about 14 million short-duration seasonal migrants in India using a definition which only captures those who migrate for one month or more, upto a period of six months (and for a minimum of 15 days in each spell) within the last 365 days. This leaves out the many seasonal migrants who migrate for more than six months in a year. For instance, many migrant construction workers in Ahmedabad live in the city for 7-10 months in the year (see Desai et al 2014).

workers in Delhi was officially estimated to be 5 lakh in 2006 (DDA 2006). For Bangalore, the number of construction workers was pegged at 3.5 lakh in 2009 (The New Indian Express 2009). In Ahmedabad, the number was estimated to be almost 1 lakh in 2009, and a survey of 970 workers found that 70 per cent were migrants who shuttle back and forth between Ahmedabad and their native place (BSC 2009). Not only is the construction sector one of the most important sources of employment in India, but it is also an important contributor to the national economy. In 2011-12, the sector was responsible for 8 per cent of national GDP (Planning Commission 2012).

Despite this evolving importance of the construction sector, its labourers remain extremely vulnerable. They are adversely incorporated into labour markets not only because they are unorganized labour but also because of the particular recruitment channels through which they are employed in the construction sector. This involves an absence of a clear relationship between workers and the principal employer while a series of intermediaries seek to maximize their profit. This chain of recruitment creates major difficulties for workers in terms of occupational safety, fair wages and welfare facilities at their workplaces. These difficulties get aggravated for migrant construction workers on account of their being migrants. As migrants, they also face severe obstacles in realizing their entitlements to housing, basic services and social infrastructures in the city, whether they live on or off construction sites.<sup>2</sup> Large numbers of migrant construction workers are therefore found in the most dismal of housing conditions.

In Ahmedabad, a 2009 survey of 970 workers found that the workers were living in three types of housing arrangements: *chawls*,<sup>3</sup> worksites and open areas / footpaths (BSC 2009). 56 per cent of labourers were found to be renting rooms in *chawls*—according to the study, these had the highest level of basic services (drinking water, bathroom, toilet and electricity) amongst the different housing arrangements. 20 per cent of labourers were living on the worksites in temporary shelters with poor basic services (only drinking water and electricity; no toilet and bathroom facilities) and 24 per cent were living in open areas / footpaths without any shelter and basic services.

A 2014 study proposed a wider typology of migrant construction workers' settlements in Ahmedabad based on qualitative methods that included discussions with NGOs working with migrant construction labour, analysis of NGO lists of migrant construction workers' settlements, followed by field-visits to their settlements across the city (Desai et al 2014). Broadly speaking, migrant construction workers were found to live in two types of settlements: off-site and on-site. In off-site settlements, the study identified three sub-types: (a) shelters/settlements on pavements and street-edges, and under flyovers and bridges; (b) shelters/settlements on government and private land which are not recognized as slums by the local government; and (c) rental housing in slums on public and private land. With regard to on-site settlements, the study categorized these into two sub-types: (a) shelters/settlements on

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<sup>2</sup> There are also gender considerations here. It is estimated that 30 per cent of construction workers in India are women. They are integrated into the bottom end of the industry as unskilled workers or head-load carriers (WEIGO n.d). Not only do they earn less as a result of this, but often they are also paid lower wages than men for the same work. This has implications in terms of realizing the entitlements of women and the households they migrate with.

<sup>3</sup> In Ahmedabad, *chawls* refer to the rental housing that was built by the textile millowners or private landowners for the mill workers. This is different from slums which, officially, refer to squatter settlements. The usage of the term *chawl* has evolved to also refer to a row or cluster of rental rooms built in a slum by an informal landlord.

private-sector construction sites and (b) shelters/ settlements on public-sector construction sites. In the case of multi-storey building construction, the workers often also move into the building under construction after it reaches a certain number of floors. Those who were living in off-site settlements were found to migrate on their own or with kin groups and were going to a naka (informal labour market) in search of daily-wage work or getting daily-wage work directly over the phone from contacts they have developed at the naka. Those living in on-site settlements were found to generally migrate as part of a labour gang put together by a mukkadam in the village.<sup>4</sup> Labour gangs were also found in off-site settlements where access to land was informally negotiated by the contractor or mukkadam. Eleven case-study settlements were studied across these housing typologies and migrants from Dahod district of Gujarat, Banswara and Dungarpur districts of Rajasthan, Jhabua district of Madhya Pradesh, Nagpur district of Maharashtra and Ranchi district of Jharkhand were found in them. The conditions of these 11 settlements were analyzed in terms of tenure security, housing quality and basic services. Tenure security was found to be low among all the off-site case-study settlements except rental housing. Housing quality was poor in the majority of the case-study settlements. Semi-*pucca* shelters were found only in the rental housing, in parts of the settlements built on government or private land and in the large public-sector construction site. Elsewhere, migrants were either living in the open, tying up their belongings into bundles or *potlas* when they go to work for the day, or in *kutchha* shelters made out of tarpaulin, plywood, cement sheets and/or tin sheets. Basic services such as drinking water, water for bathing and washing, toilets, drainage, electricity in the shelter and streetlights were also mostly inadequate except at the large public-sector construction site. One of the two rental housing case-study settlements had better services as it was part of a recognized slum whereas conditions were dismal in the other one. The worst level of basic services was found in a settlement under a flyover and at a public-sector flyover construction site.

These findings from the 2014 Ahmedabad study—which was coordinated by the author—have, in fact, been crucial in prompting this study of the legislative, policy and governance context shaping the housing, basic services and social infrastructure entitlements of migrant construction workers. The objective is to build an understanding of some of the constraints and possibilities in the current legislative, policy and governance context that would need to be addressed in order to expand and realize these entitlements. The 2014 study suggests that migration patterns and the processes of migration and getting work amongst seasonal migrant construction workers shape their practices vis-à-vis housing, basic services and social infrastructures in the city. These dynamics of migrant workers' lives also need to be understood better, however, this was outside the scope of this study given time and financial constraints.

## 2. Methodology

A review of existing literature on migrant construction workers reveals that labour laws as well as urban policies and programmes play a role in shaping their entitlements to housing, basic services and social infrastructures in the city. However, there is an absence of research that examines these in any detail, perhaps because the research on migrant construction

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<sup>4</sup> The author's ongoing research with migrant construction workers in Ahmedabad has also found that those who live in off-site settlements sometimes take up work for a few months at a single construction site during which time they move to live on-site. In other cases, in a single year, migrant construction workers look for work at the naka in one season, living in an off-site settlement during this period, and join a labour gang in another season, living on-site during this period.

workers has not had an urban studies and urban policy focus. Many studies have discussed at length the relevant labour laws and labour welfare schemes and have given us a good understanding of their provisions as well as their shortcomings, both in conception and implementation.<sup>5</sup> But the focus of these studies has been on working conditions and wages, and to some extent access to social security, health and education for workers' children, while housing and basic services for workers is only cursorily covered in some of the studies. Studies have increasingly begun to emphasize the exclusionary nature of urban policies towards migrant workers, including in relation to their housing, but have not generally examined urban policies and programmes in breadth or depth.<sup>6</sup> This paper is framed in the context of these gaps in the existing literature and attends to both labour laws and related welfare measures and schemes as well as to urban policies and programmes. It is necessary to examine both for a holistic understanding of the entitlements to housing, basic services and social infrastructures of migrant construction workers in the city because while existing labour laws largely seek to regulate housing and allied basic services provision for construction workers who live on-site, urban policies more directly impact those who live off-site.

The study is based on two methods of data collection. Relevant legislations, policies and programmes/schemes pertaining to construction labour and the urban sector were identified and collected through desk-based research. This involved a search of academic and policy literature, media articles and government websites. A review and analysis was carried out to understand the provisions in these legislations, policies and programmes/schemes; the processes and actors through which these provisions are to be implemented; and the possibilities and limitations of these provisions and processes vis-à-vis providing decent housing, basic services and social infrastructure to migrant construction workers and their families in the city.

The review and analysis from the desk-based research also provided a base for the next stage of data collection which involved discussions with government officials in Ahmedabad, Surat and Vadodara on their experiences and perspectives with regard to migrant construction labour and the legislations, policies and programmes/schemes relevant to this group. Discussions were carried out between February and May 2017 with government officials in the Gujarat government's Labour and Employment department and municipal officials in the Ahmedabad Municipal Corporation (AMC), Surat Municipal Corporation (SMC) and Vadodara Municipal Corporation (VMC) (see Annexure 1). The discussions attempted to explore the possibilities and limitations with respect to both the conception and implementation of the relevant legislations, policies and programmes/schemes as well as the attitudes of the state towards migrant labour. Official data on the implementation status of legislations, policies and programmes/schemes was also collected from the officials wherever relevant and possible.

Broadly speaking, the paper comprises of two main sections, one on labour regulations and the other on urban policies. The section on labour regulations discusses four labour laws: the Contract Labour Act 1970, the Inter-State Migrant Workers Act 1979, the Building and Other Construction Workers Act 1996 (BOCW Act), and the Building and Other Construction Workers Welfare Cess Act 1996. This includes examining the experience and status vis-à-vis

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<sup>5</sup> See for example, Ferus-Comelo (2014); James & Manoj (2014); Kumar (2011); Mosse et al (2005); Srivastava (2005); Srivastava and Sasikumar (2003); Surabhi & Kumar (2007); Varkkey & Mehta (n.d).

<sup>6</sup> See for example, Bhagat (2014); Coffey et al (2014); Deshingkar et al (2008); Srivastava (2012).

the three tasks that are central to the implementation of the BOCW Act—the regulation of employers and construction sites, the registration of construction workers and the implementation of welfare schemes for construction workers—and discussing their implications vis-à-vis access to decent housing, basic services and social infrastructure for the workers and their families in the city. In this regard, the role of the Directorate of Industrial Safety and Health (DISH), a wing of the Labour and Employment Department, and the Gujarat Building and Other Construction Workers Welfare Board are considered in detail. Finally, this section also briefly considers two additional instruments for the regulation of public and private construction sites—the contractual conditions put forth by public authorities which regulate construction sites of public projects and the development permission process of the city authorities which regulate building construction in the city by developers/contractors—and discusses their implications for ensuring that migrant construction workers and their families are provided decent housing, basic services and social infrastructure in the city.

The section on urban policies discusses four sets of policies and programmes. First, it examines the mainstream slum and housing policies and programmes for the urban poor which are not explicitly targeted at migrant labour but have an implicit stance towards this group. This includes the Basic Services to the Urban Poor (BSUP) sub-mission of the Jawaharlal Nehru National Urban Renewal Mission (JNNURM); the Rajiv Awas Yojana (RAY); the In-Situ Slum Redevelopment (ISR) and Affordable Housing in Partnership (AHP) programmes of the Pradhan Mantri Awas Yojana Housing for All (Urban); and the Gujarat government's SRS-type projects under its 2010 regulations and 2013 policy and Mukhyamantri Gruh Awas Yojana (MGAY). This also briefly examines programmes of infrastructure for basic services—such as AMRUT and Swachh Bharat Mission—to see whether they seek to expand access to basic services amongst migrant workers. Second, it looks at the recent preparation of a draft national urban rental housing policy and some recent initiatives by municipal authorities to create rental housing. Third, it examines the interventions around setting up homeless shelters in cities. These two approaches—rental housing and homeless shelters—are marginal to the overall approach to housing for the urban poor but are more directly relevant for migrant construction workers. Fourth, it briefly outlines some of the welfare programmes for food, health and education that are applicable across the country/State to look into how they facilitate and/or constrain access to these entitlements for migrant construction workers and their family members in the city.

In the context of this methodology, this paper should not be construed as providing a holistic understanding of implementation of any of the legislations, policies and programmes/schemes mentioned above as this would have also required discussions with other actors such as construction workers, their unions, NGOs working with them, and their employers and the intermediaries, which was outside the scope of the study. An additional caveat is that the paper's discussion about the welfare programmes related to food, education and health is very brief and is best taken as an outline of some of the programmes that need to be considered from the perspective of realizing these entitlements of migrant construction workers and their families in the city.

### **3. Labour Regulations, Migrant Construction Workers and Inclusive Urbanization**

Inclusive urbanization hinges on enhancing and realizing the entitlements of vulnerable and marginalized groups such as migrant construction workers to housing, basic services and social infrastructure. What is the role of labour laws in this respect? India has a plethora of

labour laws. A number of these laws are relevant for migrant construction workers. Some of them are applicable to labour across all sectors and others specifically to labour in the construction sector. Many of the laws relate to wages while many others also pertain to conditions of work, health and safety at work-sites, compensation for accident and injury, basic services like water and sanitation at work-sites, social infrastructure like canteens and creches at work-sites, and housing for workers (see Annexure 2). Some of the laws also have provisions for formulating labour welfare schemes. This section discusses the Contract Labour Act 1970, the Inter-State Migrant Workers Act 1979, the Building and Other Construction Workers Act 1996 (BOCW Act), and the Building and Other Construction Workers Welfare Cess Act 1996. It outlines the provisions in the laws with regard to housing, basic services and social infrastructure; the governance structures responsible for implementing them; and critiques in terms of the conception and/or implementation of these provisions. Drawing upon discussions with government officials, it also explores the current status and experience of implementing these laws/provisions in Ahmedabad, Surat and Vadodara and what this means for the entitlements of migrant construction workers and their families in the city.

This section also briefly discusses two additional instruments, over and above the labour laws, for the regulation of public and private construction sites and thus for potentially ensuring that migrant construction workers and their families are provided decent housing, basic services and social infrastructure in the city. The first is the contractual conditions put forth by public authorities to regulate construction sites of public projects. The second is the development permission process of the city authorities which regulate construction in the city by developers / contractors.

Numerous studies have pointed to the rampant violations of labour laws when it comes to unorganized labour. With respect to migrant labour, Srivastava and Sasikumar (2003) point out that violations are widespread given the vulnerability of their being both unorganized labour and migrants. With respect to migrant construction workers in particular, Mosse et al (2005) argue that many of the laws do not protect them because of their pervasive bias towards formal sector employment and issues of institutional access and representation.<sup>7</sup> At the same time, it is worth noting that the violations of legal provisions pertaining to minimum wages, payment of wages, compensation in the event of accident and injury, and safety at work-sites for migrant construction workers are being increasingly addressed through the interventions of NGOs and unions working with these groups and an awareness in some sections of the construction industry (particularly on safety at work-sites), leading to some progress on these fronts. However, the violations on legal provisions for housing, basic services and social infrastructure continue to be marginally addressed.

### **3.1. Laws for unorganized labour across all sectors**

The two laws applicable to unorganized labour across all sectors which are directly relevant for migrant construction workers' entitlements to housing, basic services and social infrastructure in their urban work destinations are the Contract Labour (Regulation and Abolition) Act 1970 and the Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act 1979. Other laws such as the Minimum Wages Act 1948, Payment of Wages Act 1936 and the Equal Remuneration Act 1976 are indirectly relevant for

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<sup>7</sup> Also see the studies mentioned in footnote 5.

these entitlements as the wages received would shape workers' economic capacity to undertake expenses for housing, basic services and social infrastructure.

The Contract Labour Act 1970 applies to all establishments and contractors employing 20 or more workers on contract basis and where the establishment performed work for more than 120 days in the preceding year (or more than 60 days in the case of seasonal work). These establishments have to be registered and the contractors employing (i.e. supplying) contract labour have to obtain a license under the Act. The application of the law does not require written contracts, therefore its provisions would apply to large numbers of migrant construction workers, particularly members of labour gangs. The provisions seek to regulate the contract labour's working conditions and provision of welfare facilities for them. This includes paying minimum wages and timely payment of wages as well as provision of a canteen (if the number of contract labour employed at the establishment is 100 or more); sufficiently lighted and ventilated rest rooms for the labour to halt at night; sufficient supply of wholesome drinking water at convenient places; sufficient number of latrines and urinals so as to be convenient and accessible; washing facilities; and first-aid facilities. Detailed norms for this provision are outlined in the Contract Labour Central Rules 1971 (see Annexure 2).<sup>8</sup> The responsibility for this provision lies with the contractor, however, if he does not make this provision in the time prescribed by the Act / Rules then the establishment / principal employer is required to do so and can deduct the expenses of provision from the contractor's payment. The Act has provisions for levying penalties and fines as well as prosecuting contractors and principal employers if they are in contravention of the law.

The Inter-State Migrant Workers Act 1979 (ISMW Act) applies to all establishments and contractors employing five or more inter-state migrant workers. These establishments have to be registered under the Act while the contractors employing (i.e. supplying) inter-state migrant labour have to obtain a recruitment license from the home State of the labourer and an employment licence from the State where they are to be employed. The Act outlines the responsibilities of the contractor towards the inter-state migrant labour which includes issuing them a passbook that would serve as a combined identity card and proof of employment, giving them a stipulated displacement allowance to meet travel expenses to the place of work, paying them wages in a timely manner and equal to or more than the minimum wage, providing them with protective clothing and prescribed medical facilities free of charge, and providing and maintaining suitable residential accommodation for them during their period of employment. Detailed norms for provision of residential accommodation, canteen, drinking water, latrines and urinals, washing facilities, rest-rooms and creche are outlined in the Inter-State Migrant Workers Central Rules, 1980 (ISMW Central Rules) (see Annexure 2).<sup>9</sup>

Particularly notable are the norms in the ISMW Central Rules for the residential accommodation, which are an improvement on the norms in the Contract Labour Central Rules 1971. Minimum 10 sq.m. room, verandah and covered space for cooking is to be provided for every migrant worker accompanied by any other member of his family with one latrine and one bathroom for every three such quarters. In case of single male migrant workers, a residential barrack is to be provided for not more than 10 workers, with minimum 6.5 sq.m. area per worker, with one latrine and one bathroom for 10 such workers. Like with the Contract Labour Act / Rules, if these facilities are not provided by the contractor, then the establishment / principal employer is required to provide them and can deduct these expenses

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<sup>8</sup> Gujarat Rules under the Act were prepared in 1972.

<sup>9</sup> Gujarat Rules under the Act were prepared in 1981.

of provision from the contractor's payment. The Act also has provisions for levying penalties and fines as well as prosecuting contractors and principal employers if they are in contravention of the law.

Both these Acts / Rules are poorly implemented. The Office of the Labour Commissioner (OLC) is the wing of the Gujarat government's Labour and Employment Department that is responsible for implementing both the laws. Discussions in the Surat and Ahmedabad region offices of the OLC revealed that the enforcement of the various provisions under the two laws, including those related to housing, basic services (drinking water, latrines, urinals, washing facilities) and social infrastructure (canteen, crèche), hinges on the registration of establishments and licensing of contractors, but this first necessary step is itself poorly implemented. In other words, the OLC monitors compliance to the provisions in the two laws only among establishments registered under the laws; as a result, non-registered establishments and non-licensed contractors easily escape having to comply with the provisions. In Surat region, only 2-3 companies are registered under the ISMW Act; none of these registered establishments are construction sites.<sup>10</sup> In the Ahmedabad and Vadodara region offices, data on number of establishments registered under the ISMW and Contract Labour Acts was not shared, however, no construction sites are registered under these laws. Srivastava (2005) has also pointed out that in general few contractors have taken out licences and few enterprises employing inter-state migrant workers have registered under the ISMW Act.

Ferus-Comelo (2014), in an article on migration, precariousness and contract labour, writes that where regulation is based upon an official record of existence, the registration process is imperative. But the OLC also does little to ensure registration and licensing under the two laws. Discussions with officials in the OLC revealed that inspections are carried out mainly to respond to complaints that pertain to the legislations that the OLC oversees, and they do not get complaints under the ISMW and Contract Labour Acts.<sup>11</sup> These discussions also revealed that one reason for limiting inspections mainly to complaints and the lack of a proactive role with regard to implementing the laws is poor institutional capacity. There are inadequate numbers of officials to work towards pro-actively identifying non-registered establishments and non-licensed contractors and then following up with them to ensure compliance.<sup>12</sup> With regard to the ISMW Act, Srivastava (2005) has noted that the poor implementation of the Act is due to the regulatory authorities being over-stretched and overall lack of commitment by the state towards protecting labour.<sup>13</sup>

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<sup>10</sup> One of these is a public-sector thermal power station and the other is a mine owned by a public-sector power company.

<sup>11</sup> All legislations overseen by the Office of the Labour Commissioner are listed on its website: <https://col.gujarat.gov.in/e-citizen-act-and-rule.htm> (accessed 17.1.2017). Besides the ISMW and Contract Labour Acts, this includes the Minimum Wage Act, Payment of Wages Act, Equal Remuneration Act, etc.

<sup>12</sup> The Ahmedabad region office of the OLC currently has sanctioned posts for 22 government labour officers (GLOs) of which only two posts are filled (although a few other officials from the lower cadre have been given charge of the work generally carried out by GLOs) (Discussion in the Office of the Labour Commissioner, Ahmedabad region, May 2017). The Surat region office currently has sanctioned posts for eight GLOs of which only one post is filled, and sanctioned posts for two Assistant Labour Commissioners of which only one post is filled (Discussion in the Office of the Labour Commissioner, Surat region, February 2017). Note that Hirway & Shah (2011) found that the number of officers in the Surat region office had decreased from nine in 1993 to only three officers in 2010 despite the rapid growth of industries in the city.

<sup>13</sup> Mahadevia (2012) has argued that in Gujarat the Labour and Employment Department has been poor in enforcing labour laws and this stemmed from its meagre budget. In the 2011–12 state budget, the outlay for the department was just 3.3 million rupees, which was 0.9 per cent of the total Gujarat State budget. This would

Discussions with officials in the OLC also revealed their attitudes to unorganized labour as well as how they view or present the OLC's authority and power. One OLC official initially took the stance that the OLC is supposed to look only into the organized sector. It was only after we persistently demonstrated our knowledge of the legislations overseen by the OLC and their applicability to the unorganized sector that the official dropped this stance. The same official later explained that the OLC has the authority only to enter establishments registered under the ISMW Act and does not have the authority to enter unregistered establishments—including construction sites which have never been registered under the Act—to check if inter-state migrants are being employed there. This lack of authority of the OLC to enter construction sites under the ISMW Act is unlikely to be true, but it is worth taking note of in order to understand how the OLC operates and its (in)actions to protect labour are explained. Many of the officials also responded to the author's explanation of this research by pointing out that builders provided tin-sheet shacks on construction sites and in the case of multi-storey buildings the workers often moved into the building under construction after it reached a certain number of floors. The sense that this was inadequate housing and that workers should also have access to basic services and social infrastructure was missing amongst the officials.

Furthermore, the attitude of most officials we met in the OLC's Surat and Ahmedabad region offices was that the Building and Other Construction Workers Act 1996 (BOCW Act) is the only legislation that is of relevance for construction workers. Consequently, they viewed the regulation of the employers in the construction sector—including ensuring that the employers fulfil their legal responsibilities of providing housing, basic services and social infrastructure to the workers—as being the sole responsibility of the Directorate of Industrial Safety and Health (DISH), the wing of the Gujarat government's Labour and Employment Department that is responsible for implementing the BOCW Act.<sup>14</sup> Even when we explained that many construction workers are inter-state migrant workers and therefore the ISMW Act should be enforced to protect them, officials tried to downplay this.

Poor implementation of labour laws can also be attributed to the political pressures on the Labour and Employment Department's officials. According to Hirway and Shah (2011), these pressures have corrupted many officials. In response to our questions about the obstacles they face in carrying out inspections at construction sites under any of the laws that they oversee, one of the Assistant Labour Commissioners in the OLC responded by simply saying “you know that they are all powerful people.”

There are also genuine limitations in the conception of the two laws that lead to limitations in applying its provisions (including those related to housing, basic services and social infrastructure) for migrant construction workers. As one of the officials pointed out, the ISMW Act applies only when the contractor has recruited the labourers in another State and then brought them to Gujarat, and does not apply to establishments / contractors who recruit

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also partly explain why the record of prosecutions and dispute settlement under the ISMW Act has been very weak (Srivastava and Sasikumar 2003). According to Hirway & Shah (2011), in 2008, 428 inspections were carried out in Gujarat by the Labour and Employment Department under the ISMW Act, no prosecution was launched and no convictions were made. The number of prosecutions was nine in 2002, 10 in 2005, three in 2007, 21 in 2007 and zero in 2008.

<sup>14</sup> The first response of officials in the OLC to our study on migrant construction workers was to tell us to approach the DISH since it oversees the implementation of the BOCW Act.

inter-state migrant labourers who have migrated to Gujarat on their own. Banerjee (n.d) has also made this point about the ISMW Act not having any provisions to protect labourers who have migrated on their own across state boundaries without the mediation of a contractor. Another official pointed out that in the construction sector many contractors who bring in labour cannot strictly be seen as labour contractors and instead are job contractors since they negotiate a lumpsum for a certain job (which is then carried out by the labour he puts to work on this job) rather than for supplying a certain number of labourers. According to the official, such job contractors are not required to get licenses under either the ISMW or Contract Labour Acts. This could be seen as the official's interpretation of the laws but it also points to the limitations of the laws in terms of clearly including the range of actual work arrangements through which construction work is carried out and how labour positioned in that context are covered under the Acts. A third and significant limitation is that under these two laws, the contractors supplying contract / inter-state migrant labour to an establishment are responsible for provision of housing, basic services and social infrastructure, however, at least with respect to the construction sector, many of these contractors may not be robust enough to make these provisions. In theory, the payments that these contractors negotiate with the principal employer could factor in the costs of this provision but in reality it is not clear whether they have adequate power or interest in doing so. As discussed in the next section, the BOCW Act holds the principal employer responsible for this provision, which is more realistic although there are other challenges in implementation.

Implementation of the Minimum Wages Act 1948, the Payment of Wages Act 1936 and the Equal Remuneration Act 1976—which relate to wages and thus play an indirect role in realizing workers' access to housing, basic services and social infrastructure in the city (especially for workers who get work at the naka and therefore have to arrange for their housing and basic services themselves)—has been challenging in general for unorganized workers. Today, in the construction sector in Gujarat's larger cities like Ahmedabad and Surat, skilled and unskilled labourers who get work at the naka are paid more than the minimum wage stipulated by the State government as market rates are higher but there are also many instances of delayed payment of wages, non-payment for overtime and non-payment of wages altogether. The unskilled workers who work as part of labour gangs are generally not even paid the minimum wage. Moreover, in Gujarat, the minimum wages stipulated by the State government are below the minimum wages stipulated by the Central government and even by State governments in other States with high growth.

### **3.2. Laws for construction labour**

Construction workers are one of the most vulnerable segments of unorganized labour in India, with their work being of temporary nature, the relationship between employer and employee being temporary, working hours being uncertain, basic amenities and welfare facilities provided to the workers being inadequate, and risk to life and limb being inherent to their work (GoI 1996). Recognizing this, the Central government enacted the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (BOCW Act). The Act applies to every establishment which employs ten or more building workers in any building or other construction work and where the total cost of construction is more than Rs.10 lakh. The Act defines as employer as “an owner of an establishment undertaking construction work without a contractor or by/through a contractor or with labour supplied by a contractor.” It regulates the establishment and the employer with regard to their responsibilities vis-à-vis the employment and conditions of service of the workers and their safety, health and welfare (see Annexure 2). To make this regulation

possible it has provisions for registering the establishments, that is, construction sites, as well as registering construction workers. The Act defines a construction worker as:

“a person who is employed to do any skilled, semi-skilled and 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 for the powers vested in him, functions mainly of a managerial nature.”

The Act requires State governments to (i) formulate Rules; (ii) appoint a Chief Inspector of Inspection of Building and Construction to effectively enforce the provisions of the Act; (iii) set up a State-level Building and Other Construction Workers’ Welfare Board which is to register construction workers and implement welfare schemes for them; (iv) create a Building and Other Construction Workers’ Welfare Fund under the Board which would fund the welfare schemes; and (v) set up a State Advisory Committee (SAC) to advise the State Government on matters arising out of the administration of the Act.

Welfare funds have been constituted in India to benefit informal workers in specific industries and, in most cases, are raised from a cess or tax on the production/output in the specified industries, especially those in which there is no direct recognized employer-employee relationship (WIEGO n.d). In the case of construction workers, the Central Government enacted the Building and Other Construction Workers’ Welfare Cess Act 1996, which provides for the levy and collection of a cess at the rate of 1-2 per cent on the cost of construction incurred by an employer / establishment. This cess is to be deposited in the State-level Welfare Fund, which is to be used for welfare schemes for the construction workers registered with the Board.

For almost two decades after the Acts came into being in 1996, the approach of the Gujarat government towards implementing them left much to be desired. The Gujarat Building and Other Construction Workers (Regulation of Employment and Condition of Services) Rules were created only in August 2003. Even after the Rules were created, the BOCW Act / Rules were poorly enforced due to a combination of the indifferent attitudes towards workers’ welfare and rights amongst both employers and politicians and state officials. One of the consequences of this was that until recently, the responsibility for all the three main tasks entailed by the BOCW Act / Rules—regulation of employers and their establishments / construction sites (through registration, inspections, etc), registration of construction workers, and implementation of welfare schemes for the workers—was given by the Gujarat government to the Directorate of Industrial Safety and Health (DISH), the wing of the Labour and Employment Department which is in charge of factories. Our discussions with the DISH officials reveal that this was done without providing the DISH with additional resources to take on these tasks (discussed in further detail later).

The Gujarat Building and Other Construction Workers’ Welfare Board (known in Gujarati as the *Gujarat Bandhkam Shramyogi Kalyan Board*) was constituted only in December 2004. It became active only after July 2008 when it was constituted as a full-fledged Board (CAG 2014). Even after this, few workers were registered with the Board and few welfare schemes were implemented. There were numerous reasons for this situation such as difficult worker

registration requirements, poor awareness amongst workers about registration, and inadequate staff at the Board for carrying out these activities. It was only around 2014-15 that worker registration and implementing welfare schemes were taken over by the Board as several staff were recruited and dedicated district units were set up. The SAC was also constituted in a delayed manner only in July 2008; even after this it did not meet until its term expired in July 2011 and it was reconstituted only after a few more years. Cess collection was also delayed and began only from 2006. Furthermore, the cess of Rs.540.88 crore collected between 2006 and 2013 was not transferred by the Gujarat government to the Board until after 2013. In fact, the State-level Welfare Fund was not set up until after 2013 (CAG 2014).

There have been similar shortcomings in the implementation of the Acts in many other States<sup>15</sup> although at present many States are doing better than Gujarat at registration of workers as well as implementation of welfare schemes (Dubudu 2017). The National Campaign Committee for Central Legislation on Construction Labour (NCC-CL) filed a PIL in the Supreme Court in 2006 regarding poor implementation of the Acts. Supreme Court orders in relation to this PIL have played a key role in pushing State governments, including in Gujarat, to improve their implementation.<sup>16</sup> Gujarat's experience around the three main tasks entailed by the BOCW Act and their current status are discussed below.

### ***3.2.1. Regulation of employers and construction sites***

The BOCW Act has provisions to regulate employers and establishments / construction sites with regard to the minimum conditions of work as well as the facilities such as housing, basic services and social infrastructure to be provided to workers (see Annexure 2). A first step is that employers are required to register their establishments / construction sites with the registering officer at the DISH. With regard to the facilities, the BOCW Act specifies the following to be provided by employers at construction sites:

- Drinking water that is not located within 6 metres of any toilet or washing place. (section 32)
- Sufficient toilet facilities (latrines and urinals). (section 33)
- Free temporary accommodation on or near the site to all workers employed for the period of construction work. This accommodation to have separate cooking place, bathing, washing and lavatory facilities. (section 34)
- Crèches with trained childcare help for children under the age of six years where more than 50 female workers are employed. (section 35)
- First-aid facilities. (section 36)
- Canteen in case of sites that ordinarily employ more than 250 workers. (section 37)

The Gujarat Rules diluted the BOCW Act's provisions with regard to these facilities by specifying the provision of only the following at the construction sites:

- Latrines and urinals (separate for men and women) at convenient and accessible locations with water and disposal facility, adequate lighting and maintenance. (section 59)

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<sup>15</sup> See "Status Chart dated 27.8.2012,"

[http://nirman.org/doc/Status%20Chart%2027.08.2012%20\(2\)%20\(1\).doc](http://nirman.org/doc/Status%20Chart%2027.08.2012%20(2)%20(1).doc) and "Updated State-wise Status dated 15.1.2016," <http://nirman.org/doc/Updated%20Statewise%20Status%20Jan%202016%20-%20CWP%20318-2006.docx> (accessed 21.5.2017).

<sup>16</sup> The PIL, Writ Petition (Civil) No. 318 of 2006, and other court documents including Supreme Court orders are on the website of the NCC-CL: <http://nirman.org> (accessed 21.5.2017).

- Canteen at sites with more than 200 workers (the Rules also elaborate on the canteen's design and functioning). (section 60)

Unlike the BOCW Act, the Rules make no reference to temporary accommodation, crèche or even sufficient, wholesome drinking water at the construction site. Although Rules are to be read alongside an Act and therefore the latter's provisions continue to hold, this dilution may impact how employers and officials view the former's responsibilities and the latter's role vis-à-vis ensuring these facilities.

Under the BOCW Act, State governments are required to appoint a Chief Inspector of Inspection of Building and Construction to enforce its provisions at the construction sites. But the Gujarat government did not create this specific position and instead—as mentioned earlier—the responsibility for enforcement was given to the existing officials at the DISH (also see CAG 2014: 106).<sup>17</sup> As shown by a 2011 study by Hirway & Shah (2011), the DISH has been burdened with too much work related to regulating factories in the context of severe staff shortages.<sup>18</sup> This was echoed in discussions we had with officials at the DISH district offices in Ahmedabad, Surat and Vadodara. In response to our questions about inspections of construction sites, the officials argued that the DISH was essentially set up for inspection of factories and enforcement of the Factory Act, and the enforcement of the BOCW Act was given to them as an additional charge but without additional resources. In fact, a number of the sanctioned posts for government labour officers (GLOs) in most of the district offices are vacant, making even factory inspections a challenge for them. The Gujarat government had sanctioned posts for recruiting four GLOs and two assistant government labour officers (AGLOs) at the Gujarat Building and Other Construction Workers' Welfare Board for the implementation of the Act, however, only two AGLO posts were filled (CAG 2014).<sup>19</sup> Furthermore, an official in one of the district offices explained that on April 1, 2016, the Gujarat government had instructed the DISH that under Ease of Doing Business (EODB) no inspections should be carried out at new construction sites for one year. An official in another district office, however, said they had not received any such instruction from the Gujarat government. He explained that they simply do not have the requisite staff to carry out regular inspections at construction sites, and so they do some when they can or when a complaint is registered under the BOCW Act.

Given this situation, the DISH district offices largely depend on employers taking the initiative to register their construction sites under the BOCW Act. They have no data or even estimate of how many construction sites exist in total in their district (or even the city area)

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<sup>17</sup> The Gujarat Rules state that the Chief Inspectorate of Factories and the Chief Inspector for Inspections, Labour Commissioner are members of the State Advisory Committee constituted under the Act. However, nowhere in the Rules is there any information about the power of these inspectors. This is unlike the Act whose Chapter VIII elaborates on Inspecting Staff and their powers.

<sup>18</sup> This study on labour and employment under globalisation in Gujarat argued that the capability of the Labour Department to enforce labour laws declined considerably from the early 1990s. It points to severe staff shortages in the department due to which it was in no position to conduct inspections, attend to complaints, let alone enforce labour laws. Thus, the ILO norm of one officer per 150 factories would have required the DISH to have 232 labour officers, given that Gujarat had 34,860 factories at the time, however, instead there were only 154 sanctioned posts (Class I and II officers). Moreover, in 2010, 46 of these posts (30 per cent) were found to be vacant since a year or more. There was also a severe shortage of Class III and IV staff, with 30 per cent of the sanctioned posts vacant. One senior officer explained to the authors that their job was now 'fire fighting' and 'crisis management,' not enforcing labour laws. The DISH office for the Surat region had only 19 sanctioned posts (the requirement was more than 50), of which six were filled and 13 were vacant. (Hirway & Shah 2011)

<sup>19</sup> This also came up in the discussion with Mr. R.K. Parmar, Member-Secretary, Gujarat Building and Other Construction Workers' Welfare Board, May 8, 2017.

and how many sites are unregistered.<sup>20</sup> Officials claimed that only small sites are generally unregistered, but there is no evidence to substantiate or contradict this. A 2014 report by the Comptroller and Auditor General of India (CAG) also notes that the Gujarat government “had not conducted any survey or devised any system to ascertain the actual number of establishments” and “did not take adequate measure or any initiative to secure registration of all establishments” (CAG 2014: 102). One of the DISH officials pointed out that the municipal corporations, urban development authorities and gram panchayats have the information about number of construction sites in their jurisdiction area, but there is no mechanism for sharing this information with the DISH. Often the DISH finds out about an unregistered construction site only when a fatal accident takes place which is reported in the media or reported to them as a complaint. This is when the officials visit the construction site and pressure the employer to register it under the BOCW Act.

As explained above, registration does not guarantee that regular inspections will be carried out to ensure compliance with the provisions in the BOCW Act. As a result, even the registered sites do not comply with many of these provisions which include housing, basic services and social infrastructure for workers. For example, a project manager in one of the district units of the Board stated that builders who employ more than 400 workers on their sites generally provide an *anganwadi*. But the norms in the BOCW Act state that a *crèche* should be provided at sites where more than 50 female workers are employed. Inspections would help in enforcing such norms. However, the BOCW Act is also more or less ambiguous in its language on some of the provisions which means that it is not clear if better housing and basic services would result even if inspections are carried out to enforce the Act. For instance, what constitutes “sufficient toilet facilities”? While free temporary accommodation is to be provided and is to have “separate cooking place, bathing, washing and lavatory facilities” there is a lot of room for interpretation and one can have all this and yet it can be far less than decent housing.

Note that Acts do not generally outline detailed norms for provision of facilities and this is where the Rules formulated under the Act have a role to play. For instance, while the Contract Labour Act states that sufficient number of latrines and urinals so as to be convenient and accessible should be provided, the Rules give detailed norms such as 1 latrine for every 25 men and so forth. The Gujarat Rules under the BOCW Act have failed to provide any detailed norms and, as already mentioned, have even done away with any mention of temporary accommodation, *crèche* and drinking water.

In fact, the DISH officials responded to our questions about housing for construction workers by pointing out that builders give temporary accommodation to their workers at the sites. None of them pointed to the inadequacy of this housing of their own accord. On further discussion, one of the DISH officials relented and explained that the BOCW Act has provisions for safety, health and welfare of construction workers, and that while builders are increasingly paying attention to safety, most have little awareness on health issues and therefore proper housing and toilets are rarely provided. He pointed out that a few of the large-scale developers like Happy Home Builders and Raghubir Builders had begun to pay attention to this in Surat. Alongside mentioning this, however, the official also stated that the workers were habituated to living in the kind of housing that is found on most construction

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<sup>20</sup> In Surat, 75 sites were registered in 2016 and 20 in Jan-Feb 2017 under the BOCW Act (Data obtained from DISH Surat district office, February 2017). The DISH Vadodara and Ahmedabad district offices did not provide these figures to us.

sites. The DISH officials explained that the most common complaints that they received from workers had to do with non-payment of wages and accidents on the construction site; and they did not receive complaints about the non/poor provision of housing and other facilities.

This lack of complaints should not be taken as workers being satisfied with this non/poor provision. Discussions with construction workers show that many of them acutely feel the lack of proper facilities on site (see Desai et al 2014). It is likely that the workers are unaware of the employer's responsibilities in this regard under the Act; and even if they are aware, their vulnerability and other priorities are likely to make them reluctant to speak up or take any action about this non/poor provision. Mosse et al (2005) have argued that labour laws assume a direct employer-employee relationship whereas the majority of labourers in the construction industry are recruited through a multi-tiered system of labour gang leaders, labour contractors and sub-contractors which produces a highly segmented labour market making it difficult to regulate it. In this context, workers rarely have any direct communication with the employer and negotiations and demands around better provision of facilities would have to be put forth by the intermediaries. But it is not clear to what extent these intermediaries are willing to negotiate for better facilities.

Recently, the Gujarat government has recruited 20 officials for carrying out inspections of construction sites. They are yet to occupy their posts and it remains to be seen whether this improves compliance to the Acts, especially with regard to its provisions for housing, basic services and social infrastructure.

### ***3.2.2. Registration of Construction Workers***

The BOCW Act provides for the registration of construction workers between the age of 18-60 years. Registration is mandatory for construction workers to be considered eligible for the welfare schemes of the Gujarat Building and Other Construction Workers' Welfare Board. The registered workers are given a registration booklet by the Board and are required to renew their registration periodically. The number of workers registered remained very low in Gujarat for many years. One reason was that the eligibility requirements for registration required workers to prove that they had worked as a construction worker for 90 days in the last 12 months. The document accepted as proof of this work duration was a certificate from any of the following: (i) the talati of the worker's village; (ii) contractor; (iii) rural labour commissioner; (iv) labour commissioner; or (v) the Directorate of Industrial Safety and Health (Mahadevia 2012). But contractors (who are the most accessible to workers from amongst these actors) were reluctant to give this certificate because they feared that they would be brought under the state's regulation; in fact many are not even licensed and want to remain that way to avoid regulation. Some talatis were responsive for giving the certificate while others were not.<sup>21</sup> Besides the certificate, the documents required for registration also required proof of domicile in Gujarat (Mahadevia 2012). This immediately disqualified the inter-state migrant workers from registration. Another reason for low registration might have been the low awareness amongst the workers about the BOCW Act and few attempts by the state to increase worker awareness and actively register them. As of March 2013, as against an estimated figure of more than 12 lakh construction workers in Gujarat, only 69,971 workers, that is, six per cent, were registered (CAG 2014).

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<sup>21</sup> Discussion with Preeti Oza, Prayas Centre for Labour Research and Action, Ahmedabad, May 23, 2017.

In 2015, the Board passed a resolution to allow for self-declaration as a construction worker where a worker can give an account of his/her work in the construction industry and can get registered without a certificate of work duration from the contractor or any other person. The domicile requirement was dropped around this time leading to possibility of registering inter-state migrants. Earlier there was a nominal fee for registration which was also removed. All this contributed to the registration numbers rising from 2015. As of May 2017, the Board has 5.33 lakh registered workers (Table 1). At present, workers are required to submit xeroxes of four documents for registration: Aadhar card, Election card, Ration card, and the first page of their bank passbook. Since migrant workers do not generally keep all these documents with them when they migrate, the Board also began to do temporary registrations around January 2017 based on the furnishing of only one document like Aadhar card. The worker is given a temporary or *hungami* booklet. If the worker does not submit the other requisite documents within three months then the registration is to be cancelled. Workers with temporary registration are entitled to only a few of the Board's schemes such as the anganwadi scheme for their children, the Dhanvantri Yojana's mobile health van, the temporary housing scheme and some accident compensation schemes (the schemes are discussed in the next section). Schemes involving larger benefits for family members such as education scholarships and housing subsidy can be availed only after permanent registration is completed. Initially registration had to be renewed every year; in 2015 the Board passed a resolution to change renewal to every three years.

**Table 1: Number of registered construction workers**

(Source: State-level & district-level offices of Gujarat Building and Other Construction Workers' Welfare Board)

	No. of registered workers*	No. of temporary registrations
Gujarat (as of May 2017)	532,895	No breakup available
Ahmedabad district (as of 30.4.2017)	56,084	No breakup available
Surat district (as of 30.4.2017)	10,980 <sup>22</sup>	1557
Vadodara district (as of 20.5.2017)	8,252	No breakup available

\* may include workers whose registration has not been renewed

The registration numbers have also risen because the Board has better capacity to carry out this task. Earlier in each district, the registration of workers was carried out through the DISH district office. From April 1, 2016, the registration of workers was moved out of the DISH into a special district unit with dedicated staff.<sup>23</sup> Each district unit is supposed to have one project manager and 2-3 other staff including a data operator. All the district units currently

<sup>22</sup> Large number of registered workers in Surat are from Saurashtra. This could be because the project manager attempted to reach out to construction workers by raising awareness of registration and the Board's schemes through the *wadi* of the Kadiya community which is from Saurashtra (Discussion with Project Manager, Surat district office, Gujarat Building and Other Construction Workers' Welfare Board, February 2017).

<sup>23</sup> Although registration is now the responsibility of a separate dedicated district unit, the DISH labour officials who go on inspection at construction sites informally try to persuade the builder to register his workers with the Board. Similarly, the project managers in the district units also informally try to persuade builders to register their construction sites with the DISH.

have a project manager but only a few of them have another staff person.<sup>24</sup> The task of registering the workers had been contracted out to private agencies, and thus the DISH and later the district units were not the only ones carrying out this task. However, in March 2017, the contracts of the private agencies were cancelled because it had come to light that many fake registrations were occurring.<sup>25</sup> In early 2017, the Board also launched a *namankan rath* which is a bus that serves as a mobile registration unit. The mobile unit travels to different rural areas across Gujarat to register workers in the migration sources areas.<sup>26</sup>

Despite this massive rise in registered workers in the last couple of years, registration has a long way to go as there are an estimated 12 lakh construction workers in Gujarat. Furthermore, although there is no available data showing the breakup of registered workers in terms of locals versus migrants, the Board's staff admit that registering migrants, especially inter-state migrants, remains a big challenge. Despite the drop of the domicile requirement, the number of registered migrants, especially inter-state, is low. According to some of the Board's staff this is because they do not carry their documents with them when they migrate while the Board's Member-Secretary argued that the workers carry their documents but labour contractors demotivate them to show them to government officials.<sup>27</sup> Temporary registration is being done since a few months, thus increasing the possibility of reaching more migrants, but it remains to be seen how many of them get converted into permanent registrations. Meanwhile, the Board has started to do registration in migration source areas through the mobile unit, but this is only for source areas within Gujarat and so inter-state migrants cannot be registered in this manner. There is also no available data regarding the proportion of unskilled to skilled workers in the registration. Note that the majority of migrants from tribal districts in Gujarat are unskilled workers. The Board's staff has carried out registration campaigns at the nakas and this has reached unskilled workers, but many workers are also now coming to the Board's district offices to register and from our few observations in these offices it seems that the majority are skilled workers and even many labour contractors.

Another important challenge that the Board continues to face in terms of registering workers is that builders have so far been reluctant in supporting worker registration since they fear they will be held responsible for the workers working at their site. The Board's staff does not have the authority to enter construction sites and register workers but some of the project managers are trying to build trust amongst builders by emphasizing that the Board is only concerned with workers' *kalyan* (welfare) and that if there is an accident on their site then the concerned worker would get compensation from the Board.<sup>28</sup> A final observation that needs to be made here is that the huge spurt in registrations and, as discussed below, the increasing disbursement of benefits through the Board's welfare schemes could very well be linked to

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<sup>24</sup> The Vadodara district unit did not have internet in their office as of February 2017, creating major hurdles for the project manager to fulfil her responsibilities in a timely manner.

<sup>25</sup> Discussion with Mr. R.K. Parmar, Member-Secretary, Gujarat Building and Other Construction Workers' Welfare Board, May 8, 2017.

<sup>26</sup> The bus travelled in Aravali district under Phase I; 11 tribal districts in the first part of Phase II (February 2017); and Kutch district in the second part of Phase II. The mobile unit has dedicated staff and the Board's district staff also accompanies them. The registration booklet is issued on the spot (Discussion with Mr. Harshad Solanki, State Project Coordinator, Gujarat Building and Other Construction Workers' Welfare Board, March 6, 2017).

<sup>27</sup> Discussion with Mr. R.K. Parmar, Member-Secretary, Gujarat Building and Other Construction Workers' Welfare Board, May 8, 2017.

<sup>28</sup> Discussions with the project managers in Ahmedabad, Surat and Vadodara district offices, Feb-March 2017.

the upcoming 2017 Gujarat State elections. In this context, there is less incentive to reach large numbers of inter-state migrant construction workers since they are irrelevant in these electoral calculations. It would be instructive to track the registrations and disbursement of welfare scheme benefits after the elections.

### **3.2.3. Welfare Schemes for Construction Workers**

The Board has increased the range of welfare schemes for construction workers in recent years in Gujarat. Prior to 2014, there were 6-7 schemes which included education scholarships; compensation in case of accidental death or disability; medical aid; maternity aid; coverage of workers under the national medical insurance scheme Rashtriya Swasthaya Bima Yojna (RSBY); and a housing subsidy scheme (Mahadevia 2012; CAG 2014). Under the housing subsidy scheme, any registered construction worker allotted housing under any government scheme could avail a subsidy of Rs.20,000 for down-payment by producing the allotment letter. According to a 2014 CAG report, the Board had incurred an expenditure of Rs.4.12 crore on welfare schemes during 2006-12, which was 0.76 per cent of the total cess of Rs.540.88 collected during this period. Almost 95 per cent of this expenditure was towards educational scholarships. The remaining schemes had poor reach and no workers had got the housing subsidy. These benefits were availed by 12,193 of the 69,971 workers registered at the time (that is, 17.4 per cent of the registered workers) (CAG 2014).

Since 2014, the Board has added many new welfare schemes and modified some of the older ones. It has also recruited several State Project Coordinators, each of who coordinates a cluster of the schemes. Currently, there are over 20 welfare schemes. Broadly speaking they fall in the categories of housing; social infrastructure for child-care and health; education assistance; health assistance; other social security schemes like life insurance and pension schemes; and skills and safety training schemes (See Annexure 4). Registered workers have to fill the application form for almost every scheme since registration does not automatically ensure benefit of the schemes.

Shri Nanaji Deshmukh Awas Yojana is the housing subsidy scheme launched in September 2014. It provides financial aid to construction workers who have been allotted a house in a government EWS/LIG housing scheme.<sup>29</sup> The aid amount is Rs.1.6 lakh to male construction workers and Rs.1.7 lakh to female construction workers. At present, the criteria for eligibility is that the beneficiary should have been registered with the Board for two years continuously before they can avail of the scheme and neither the worker nor any household member should own a house.<sup>30</sup> When the scheme was first launched there was no time-related criteria. Criteria were introduced in February 2016 that there should be a gap of at least one month between registration and applying for the EWS/LIG scheme. This criteria and then its modification to the present, more stringent criteria was to prevent persons who had already applied for a EWS/LIG scheme to register with the Board for the purpose of getting the subsidy, which was viewed by the state as “misuse of the scheme.” Although why the state should view it as misuse is unclear. If the scheme is meant to benefit construction workers, then whether they apply for the EWS/LIG scheme prior to or after registration with the Board

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<sup>29</sup> EWS refers to Economically Weaker Section and LIG to Lower Income Group. The State governments determine the income ceiling that defines these groups for the purpose of EWS/LIG housing schemes.

<sup>30</sup> The information in this paragraph about the criteria for eligibility, its modifications over the years and reasons for these changes is based on a discussion with Mr. R.K. Parmar, Member-Secretary and Suraj Sumara, State Project Coordinator, Gujarat Building and Other Construction Workers’ Welfare Board, March 6, 2017.

should not matter as long as the person is indeed a construction worker and he/she or another household member does not already own a house. Another reason for recently making the criteria stringent is that in the Boards of other States there is a minimum of three years registration requirement to avail of their housing subsidy scheme.

In 2017, the Board also launched a temporary housing scheme called the Pandit Deendayal Hungami Awas Yojana.<sup>31</sup> Under the scheme, temporary units have been erected mainly at construction sites of public projects like the metro in Ahmedabad. A few have also been erected at private construction sites with the idea of creating awareness amongst the private builders about providing housing to their workers. The temporary unit consists of one-room of 8 feet by 10 feet carpet area and 9.5-10 feet height, with walls made of prefabricated RCC panels and roof of corrugated cement sheets. An electricity point is provided inside the room with the necessary internal wiring, and the developer/contractor is required to connect this to the power supply.

While the idea of providing temporary housing for construction workers is important, proper thought has not been given to its design. The units are too small in size even for a family of four and its design is not based on any consideration of space for storage, cooking etc. Water and sanitation are also not integrated into the design. As a result, this is dependent on whatever the employer/contractor decides. On a private construction site we visited in Surat where about 20 temporary units had been erected, the water source and toilets were located at the other end of the site. Whereas at one of the labour camps for the construction workers for the metro project in Ahmedabad, mobile toilets were provided by the contractor near the units. In both cases, there was no drainage near the units and it remains to be seen what the conditions will be like in the monsoon. The Board is also providing tarpolin tents of 14x12 feet to construction sites of public works such as roads, over-bridges, railways and canals. One would have to visit these tent sites to see if any consideration is given to the integration of shelter with water, sanitation and electricity. Note also that these temporary housing interventions by the Board ignore the BOCW Act which states that the temporary accommodation provided to workers “shall have separate cooking place, bathing, washing and lavatory facilities.”

Recently, the Board has begun to explore the possibility of preparing a rental housing scheme. The genesis of this exploration is not clear but it may be emerging from discussions in the Central government.<sup>32</sup> Currently the idea under exploration is that the Board be given municipal or State government land in Ahmedabad, Surat, Vadodara and Rajkot to construct rental housing colonies wherein housing would be given to workers for 90-day durations and the builders for whom they work would pay rent to the Board.<sup>33</sup>

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<sup>31</sup> The information in this paragraph about the temporary housing scheme is based on a discussion with Mr. R.K. Parmar, Member-Secretary and Mansi Patel, State Project Coordinator, Gujarat Building and Other Construction Workers' Welfare Board, March 6, 2017.

<sup>32</sup> The Guidelines for the Pradhan Mantri Awas Yojana Housing for All (Urban) mention that the States collect cess on construction projects and transfer the amount to a State-level Construction Workers Welfare Fund, and that the Ministry of Labour will be requested to ask States for creating rental housing stocks to workers as welfare measure (MHUPA 2016a: 18). As we discuss in Section 4.1.2 of this paper, the Surat Municipal Corporation is also exploring an idea for building rental housing using the cess funds.

<sup>33</sup> Discussion with Mr. R.K. Parmar, Member-Secretary and Suraj Sumara, State Project Coordinator, Gujarat Building and Other Construction Workers Welfare Board, March 6, 2017. Note that a pilot scheme along similar lines was being developed in Haryana in collaboration with the International Labour Organization in 2010 (ILO 2010); it is unclear if it was ever implemented.

The reach of the temporary housing scheme—and the rental housing scheme if it materializes—is restricted to construction labour working for a builder for a considerable duration and living on the construction site in this capacity. There is no thought as to how the Board’s housing interventions can reach daily-wage workers who go to the naka in search of work and therefore work for different builders almost everyday. But this need not be the case and a temporary rental-based housing scheme could also be evolved for workers who go to the naka. While the Nanaji Deshmukh Awas Yojana is meant for those who get work from the naka, this is for ownership-based housing and the conception of the scheme restricts the labourers that can benefit from it. For instance, the labourer would have to be eligible for a government EWS/LIG housing scheme in the city, but as discussed in the next section, the criteria for eligibility in such schemes disqualifies migrant labour since they have no proof of residence documents for their urban work destinations. Furthermore, as discussed in the next section, these schemes are also unlikely to be accessible to most migrant naka workers since they would not be able to pay as per the terms and conditions of the scheme.

In a broader sense, the Board does not seem to have given proper thought as to what role it should best play with regard to housing, basic services and social infrastructure for construction workers. Under the BOCW Act, this provision is the employer’s responsibility and can be implemented by them where workers are employed for some duration and live on construction sites in this capacity. Through its schemes for temporary housing at construction sites of public and private projects, the Board is absolving the employers of this responsibility while making no attempt to reach daily-wage workers for whom implementing this provision is difficult as they work for different employers almost every day. It would be better if the inspectors enforce these provisions of the Act, and as discussed earlier, the Rules are modified to have better provisions and norms. This is not to argue that the Board should not support employers vis-à-vis improving facilities for the workers who live on their construction sites. But this needs to be thought through more carefully so that the Board is not using its funds to do what employers should be doing. It should also consider the smaller-scale employers and construction sites where enforcing these provisions of the BOCW Act is challenging for legitimate reasons of resources, space, etc.

There is a similar point to be made with regard to the Board’s scheme for crèches for construction workers’ children. The Board has two schemes which provide for social infrastructure, one for child care and the other for health. The first is the scheme for anganwadi / balwadi for construction workers’ children. This provides for setting up crèches in municipal corporation areas at construction sites or construction workers’ colonies where duration of construction work is expected to be at least for three years, more than 100 workers are employed, and there are more than 30 children in the 3-6 years age-group. The anganwadi / balwadi is to be operated by a private agency. The financial cost is to be borne by the Board but the scheme is to be implemented by the Women and Child Development Department along the lines of the Integrated Child Development Services (ICDS) scheme.<sup>34</sup> While provision of crèches is important, under the BOCW Act, the responsibility for this lies with the employer at sites where more than 50 female workers are employed (regardless of duration of construction work). In this context, it would be more desirable to enforce this provision through the inspectors so that the employers are not absolved of their responsibility. The Board could still play a role but only by providing the funds for adding

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<sup>34</sup> The ICDS scheme is a Central government scheme to provide food, preschool education and primary healthcare to children under 6 years of age and their mothers.

the ICDS scheme's nutrition and primary healthcare component to the crèches set up by the employer. This more limited role would also free up the Board's resources so that this social infrastructure can be taken to children who do not get covered by the BOCW Act, that is, children at construction sites where less than 50 female workers are employed (regardless of duration of construction work). The second scheme is the Dhanvantri Aarogya Rath, under which the Board has provided a mobile health van to some of its district units. This is an important scheme and efforts should be made to keep widening its coverage of workers and their accompanying family members.

The Board also has several schemes which provide financial assistance for education of construction workers' children, health related aid (for pregnancies, serious illnesses, occupation-related illnesses), compensation to the family in case of accident-related disability or death of the worker, and subsidy on Central government pension and life insurance schemes. The total amount disbursed for all the welfare schemes is Rs.64.16 crore as of May 2017 (see Annexure 4), which is only 4.1 per cent of the total collected cess of Rs.1564 crore (Cowper 2017).

### **3.3. Regulation through public authorities undertaking or approving construction projects**

The state is a major employer of migrant construction labour since it undertakes various public projects. The state is therefore responsible for implementing the provisions under the BOCW Act for the workers at the construction sites of these projects. It clearly fails to do this in the majority of projects. Since the state contracts out the construction to large contractors, what would be required are clear contractual conditions through which the state requires the contractors to adhere to the provisions of the BOCW Act and then monitors the construction sites to ensure that these conditions are met. In other words, a public authority's contract with a contractor could be a means through which an authority undertaking a public project can fulfill its responsibilities as employer under the BOCW Act. A study of such contracts was beyond the scope of this study. Here, we examine only the general contractual conditions put forth by one public authority, the Central Public Works Department (CPWD). These contractual conditions outlined in the "General Conditions of Contract" (GCC) have provisions around work conditions as well as housing and basic services provision for the construction workers. Significantly, the provisions in the GCC are more detailed than those in the previously discussed labour laws, including the BOCW Act.

The most recent GCC from 2014 specify the following with regard to the camps to be constructed by the contractor for the workers (CPWD 2014: 45-47) (see Annexure 2 for more details):<sup>35</sup>

- Huts as per specified norms for their size (floor area at the rate of 30 sq.ft. for each member of the worker's family staying with the worker, etc) and specified construction materials for the walls, roof and floor
- Proper ventilation and security for the huts via suitable doors, windows, and ventilators
- Open space between the rows of huts as per specified norms
- Cooking places for each family and size and location of cooking place

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<sup>35</sup> The General Conditions of Contract (GCC) are also revised at regular intervals. The previous GCC from 2010 (CPWD 2010) were modified in 2014 (CPWD 2014) to add provisions for disposal of excreta from the latrines provided at the labour camps, security of the huts constructed for the workers, etc.

- Temporary latrines and urinals as per specified norms (not less than four per 100 persons), with separate latrines and urinals for women
- Bathing and washing places as per specified norms (one for every 25 persons)
- Water supply as per specified norms with regard to amount (not less than two gallons of pure and wholesome water per head per day for drinking purposes and three gallons of clean water per head per day for bathing and washing purposes) and type of supply/storage (standposts in case of piped supply and metal / masonry tanks in case of supply from wells or river).
- Disposal of excreta as per specified requirements of the local health authorities
- Drainage
- Lighting to avoid accidents
- Sanitation as per the rules of the local public health and medical authorities

Discussions with municipal officials revealed that construction projects undertaken by city authorities through a contractor often involve a contract as per State PWD norms which require that the contractor provide housing, basic services like water and toilets/baths and certain other facilities to the construction workers.<sup>36</sup> These provisions and norms would have to be examined to see whether they are an improvement on those outlined in the labour laws. However, such contractual conditions do not seem to be met by most contractors. This would explain the widespread instances of dismal workers' housing seen near the construction sites of public infrastructure projects (flyovers, bridges, roads, etc) in our cities. While no comprehensive study has been done on this housing, a visit made in 2014 to a flyover construction site near Narol cross-roads in Ahmedabad revealed poor conditions (Desai et al 2014). The 20 odd single male migrants and one woman worker, who had come as a labour gang from Jharkhand, were living on site in six shacks that they had made out of tin-sheets provided by Chetan Engineering, the sub-contractor engaged by the main contractor IRB Infrastructure Developers Ltd. No toilets or baths were provided and the workers therefore resorted to open defecation. Water—for both bathing/washing and drinking—was filled in large open plastic drums via a water tanker, raising concerns about its quality due to the way this kind of storage. The workers lived in this manner for several months, engaged in RCC work, shuttering and centering.

The city authorities also have a provision for regulating private and public building construction sites through the development permissions that they grant when a developer/contractor seeks to undertake construction in their jurisdiction. The AMC, for instance, requires the developer/contractor to sign a bond as a condition for receiving the development permission. Through the Bond, the developer/contractor states that he undertakes to provide temporary housing for the construction workers and their family members on the construction site or on one of his other private plots; make sufficient provisions to meet their sanitation needs; and ensure that the workers will not encroach on any public space.<sup>37</sup>

The guidelines of the Swachh Bharat Mission, the Central government programme launched in 2014, mandate that “construction labour in urban areas [should] have access to temporary toilets at all sites in urban areas, buildings, parks and roads where construction / maintenance work is temporarily housed” (MUD 2014). While the guidelines do not give any norms for

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<sup>36</sup> Discussion with Mr. H.S. Suthar, Executive Engineer, Slum Upgradation Cell, SMC, February 2017.

<sup>37</sup> Sample bond document viewed and photographed at the office of the Assistant Town Development Officer, AMC, May 8, 2017.

the temporary toilets or mention the actors responsible for their provision and maintainance, the city authorities could link the mandate in a fruitful manner to the development permission.

#### **4. Urban Policies, Migrant Construction Workers, and Inclusive Urbanization**

This section examines the urban policies in Indian cities today, particularly in the three cities of Ahmedabad, Surat and Vadodara, to examine their implications for migrant construction workers and their families. Many of these policies are not explicitly targeted at migrant workers but they have an implicit stance towards this group which plays out in the politics of urbanization and inclusion/exclusion. Other policies address migrant workers directly or have considerable potential to do so. The attempt is to examine the policies both in terms of their conception and, to a limited extent, their implementation.<sup>38</sup> The discussion is structured in four parts. First, it examines the mainstream slum and housing policies and programmes for the urban poor to see whether migrant workers, as one group of the slum dwelling population and urban poor, are able to access housing and basic services through them. This also briefly looks at city-wide programmes of basic infrastructure and services—such as Swachh Bharat Mission and AMRUT—to see whether they seek to expand access to basic services amongst migrant workers. Second, it looks at the recent preparation of a draft national urban rental housing policy and some recent initiatives by municipal authorities to create rental housing. Third, it examines the interventions around setting up homeless shelters in cities. These two approaches—rental housing and homeless shelters—are marginal to the overall approach to housing for the urban poor but are more directly relevant for migrant construction workers. Fourth, it briefly outlines some of the welfare programmes for food, health and education that are applicable across the country/State to look into how they facilitate and/or constrain access to these entitlements for migrant construction workers and their family members in the city.

##### **4.1. Mainstream Slum and Housing Policies and Programmes**

According to the United Nations, 827 million people in the developing world could be classified as slum dwellers—individuals who face inadequate access to safe water, sanitation and other infrastructure; poor structural quality of housing; overcrowding; or insecure residential status—in 2010. While the proportion of slum dwellers to total urban population in the developing world had declined between 2000 and 2010 from 39.3 per cent to 32.7 per cent, the absolute numbers had increased with six million being added every year to the slum-dwelling population (UN-HABITAT 2010). In India, according to the Census, the population living in slums increased from 42.6 million in 2001 to 68.5 million in 2011 or 15 per cent to 17.1 per cent of the total urban population (Census of India 2001a; 2011a). Scholars have noted that these numbers are an underestimation (see Bhan and Jana 2013).<sup>39</sup> Slums refer not

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<sup>38</sup> As mentioned in the methodology, since the discussions on implementation are based on discussions with government officials and official data shared by them, the paper should not be construed as providing a holistic understanding of implementation.

<sup>39</sup> Bhan and Jana (2013) caution us about the Census figures, pointing to the fact that the slum definition used by the Census is likely to leave out many slums. This definition includes notified slums, recognized slums (settlements acknowledged and categorized as slums by the State or local authorities), and identified slums (settlements of at least 300 residents or about 60-70 households of poorly built congested tenements, in unhygienic environment usually with inadequate infrastructure and lacking in proper sanitary and drinking water facilities). Thus, settlements of less than 300 residents / 60 households but of the same poor conditions are not counted as slums in the Census. They further argue that the 2011 Census figures should be treated with

only to settlements with inadequate housing conditions and insecure tenure but they are also high concentrations of poverty and social and economic deprivation as a result of their residents being adversely integrated into the political economy. Large numbers of the urban poor and low-income groups live in slums due to the lack of formal housing in the city that is affordable and viable for them. They work mainly in the informal sector which is characterized by a lack of regulations, lack of social protection, insecurity of work, low possibilities for collective bargaining, low wages, etc. In other words, shelter conditions and labour conditions are deeply intertwined. This has led to numerous policies that seek to address slums.

However, in Indian cities, slum programmes as well as municipal provision of basic services (water, drainage, sewerage, toilets) to slums are implemented only in slums recognized by the city authorities. Generally these are the notified slums and other slums acknowledged in the slum surveys/lists of the city authorities. Slums not included in these surveys/lists are generally ineligible for these programmes and for municipal services provision. In the past, the criteria for slum recognition was rarely stated clearly even as it was driven by duration of the slum's existence, size, landownership and electoral politics. The criteria for recognizing slums and including them in slum surveys/lists are being clearly stated in recent years and have become almost all-inclusive. For instance, the slum survey under the Rajiv Awas Yojana (RAY), the Central government programme launched in 2009 to create "slum-free cities," was to take a "whole city" approach and include all slums comprising of at least 20 households regardless of notification, landownership and tenability (MHUPA 2011).

The methodology for the RAY slum survey in Ahmedabad relaxed this criterion even further, stating that all slums comprising of at least 10 households were surveyed (AMC n.d). However, the fact is that not all slums as per this criterion were included in the survey. The Prayas Centre for Labour Research and Action has prepared a list of around 50 settlements (all having more than 10 households each) comprising of a total of approximately 2500 households that are not included in the RAY survey (Prayas 2014). Some of these settlements are on municipal land, others on private lands and others on Railway lands. Examples of such settlements, which can be spotted on Google Earth prior to the RAY survey in 2009, are the Baraf ni Factory Basti, Sewage Basti and Sundarvan Basti, all comprising of more than 10 households. In discussions with AMC officials for this study, they were unable to explain why these settlements had been left out of the RAY survey despite its stated methodology. They pointed out that the RAY survey also covers many other settlements on Railways land so landownership would not have been a criterion. Prayas argues that the settlements were left out because they include large numbers of seasonal migrants with many not having documents showing proof of residence for Ahmedabad even though they have been living in these settlements for many years. This could indeed be the case, and if it is so then it reveals a continuing politics of slum recognition as in the past, the difference being that now this politics is masked by a stated claim to inclusiveness even as it excludes settlements with large numbers of seasonal migrants without clearly saying so.

Since RAY never really took off with the ruling party changing at the Centre in 2014, the implications of these settlements not being recognized in the RAY survey was difficult to gauge through discussions with municipal officials in Ahmedabad, Surat and Vadodara. At a more general level, settlements that are not recognized in the slum survey/list of the city

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caution because increased displacement in Indian cities has often led to resettlement into formal public housing which are not counted as slums despite deteriorating into slum-like conditions.

authority could face greater difficulties in obtaining resettlement in the event of slum evictions. Unrecognized settlements are also likely to be denied basic services. Thus, whereas infrastructure for basic services of water supply and sewerage is receiving much attention in cities under AMRUT—a Central government “mission” launched in 2015 whose objectives include ensuring that every household has access to a tap with assured water supply and a sewerage connection—it remains unclear whether the unrecognized settlements of migrant construction workers are eligible for these connections.<sup>40</sup> The Swachh Bharat Mission (SBM) aims to eliminate open defecation with a key intervention being the construction of household toilets, community toilets and public toilets.<sup>41</sup> Unlike AMRUT, the SBM guidelines explicitly state that “households will be targeted under this scheme irrespective of whether they live in authorized/unauthorized colonies or notified/non-notified slums.” Under SBM, “tenure security issues are to be de-linked with benefits” (MUD 2014). But three years into SBM it is unclear if the city authorities are following these guidelines. In October 2016, Gujarat even declared its urban areas to be open-defecation-free (Express News Service 2016)! In Surat, there is no plan to build any toilets in the slums under SBM as these are considered to be adequate in number.<sup>42</sup> In Ahmedabad, some mobile toilets have been set up at some of the migrant workers’ settlements although it is still unclear if these were placed under SBM.<sup>43</sup> In fact, the SBM guidelines explicitly recognize migrants and construction labour as special focus groups, requiring that “all temporary accommodation for migrants and the homeless in urban areas have adequate provision for toilets either on the premises or linked to a public / community toilet.” However, this ignores the fact that few migrants and homeless still live in temporary accommodation (which presumably refers to night or 24-hour shelters). In this context, it seems that city authorities are expecting residents of unrecognized settlements and the homeless to use public toilets. Beyond the question of whether these are adequately located, they are also too expensive for these socio-economic groups since they are operated as pay-and-use toilets.

Let us now turn to the mainstream slum and housing policies and programmes to first trace their evolution and then to examine their implications for migrant construction workers in the city. Broadly speaking, these policies and programmes have seen a shifting emphasis from (i) in-situ slum upgrading and sites & services projects in the 1970s-80s and into the 1990s<sup>44</sup> to (ii) public housing construction from the 2000s under Central government programmes like

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<sup>40</sup> AMRUT stands for the Atal Mission for Rejuvenation and Urban Transformation. The guidelines state that “providing basic services (e.g. water supply, sewerage, urban transport) to households and building amenities in cities which will improve the quality of life for all, especially the poor and the disadvantaged is a national priority” (MUD 2015a). The urban local bodies, which are the implementing agencies for AMRUT, are to prepare a Service Level Improvement Plan (SLIP) and Detailed Project Reports (DPRs). These could be studied to understand the programme’s proposed coverage.

<sup>41</sup> SBM guidelines estimate that 80% urban households defecating in the open can be provided with household toilets, for which the Central government would provide a grant of Rs.4000 per beneficiary. According to the guidelines, the remaining 20% urban households defecating in the open are likely to use community toilets due to land and space constraints in constructing household toilets. Community toilets are to be provided as per the norm of 1 seat for 35 men and 1 seat for 25 women. Except for North-Eastern States, financing of community toilets would be through 75 per cent Central government grant and 25 per cent State government grant. Public toilets are meant for the city’s floating population, estimated to be 5 per cent of the total urban population, and are to be provided at markets, train stations or other public areas with considerable number of people passing by. (MUD 2014).

<sup>42</sup> Discussion with Mr. B.L. Patel, Chief Coordinator, Swachh Bharat Mission, SMC, February 2017.

<sup>43</sup> The mobile toilets were set up after advocacy on this issue by the Prayas Centre for Labour Research and Action. While an important step, the number of mobile toilets are still inadequate and would also need gender-sensitive design and planning as well as proper maintenance if their use is to be ensured.

<sup>44</sup> This would include the Slum Networking Programme (SNP) in Ahmedabad in the 1990s.

VAMBAY and Basic Services for the Urban Poor (BSUP) which were used to a large extent to resettle evicted slum dwellers to (iii) market-based interventions which were first seen in a Central government programme in 2009 and are today the crux of the Pradhan Mantri Awas Yojana (PMAY), the Central government programme launched in 2015 with the slogan “Housing for All by 2022.”

In Gujarat, the State government also shifted from funding public housing construction in the 2000s<sup>45</sup> to market-based interventions from 2010. It formulated the “Regulations for the Rehabilitation and Redevelopment of the Slums 2010” to encourage SRS-type projects based on the Mumbai model of Slum Rehabilitation Schemes (SRS) under which the slum is to be redeveloped with private participation using land as a resource. A developer develops part of the land of the slum for the slum residents with cross-subsidies obtained from the remaining land development, which is made profitable for the developer through incentives such as increased Floor Space Index (FSI), Transfer of Development Rights (TDR), etc. The 2010 regulations were amended in 2012 to provide greater incentives to developers and this was superseded by the Gujarat Slum Rehabilitation Policy in 2013 which continued further along the SRS model. Soon after the Gujarat government also launched the Mukhyamantri Gruh Awas Yojana (MGAY) to construct EWS and LIG housing and allot them through a lottery system through the Gujarat Housing Board and the city authorities. In many instances, these EWS/LIG projects have been developed with private-sector participation.

The current Pradhan Mantri Awas Yojana (PMAY) comprises of four “verticals” or housing approaches.<sup>46</sup> In-situ Slum Redevelopment (ISR) is based on the above-discussed SRS model and can be proposed for tenable slums, that is slums that do not have to be relocated. Affordable Housing in Partnership (AHP) is also based on involvement of the private-sector. Under this, a developer is given Central Government assistance if he constructs 35 per cent of houses as EWS. Credit-Linked Subsidy Scheme (CLSS) gives an interest subsidy on loan for constructing or purchasing a property in the private housing market. PMAY interventions in Ahmedabad, Surat and Vadodara are currently based on these three verticals and not the fourth one which is Beneficiary-Led Construction (BLC) under which support is extended to households to upgrade their house in-situ (which would be more akin to in-situ slum upgrading).

The implication of these slum and housing policies and programmes for migrant construction workers manifests through their household eligibility criteria. In the case of BSUP housing,<sup>47</sup> which has been used in Ahmedabad, Surat and Vadodara for resettlement of evicted slum dwellers, the city authorities have used a cut-off date to determine eligibility. SMC has used a cut-off date of 27.5.2007 requiring that the evicted slum dwellers furnish documents showing

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<sup>45</sup> State government grants were used by city authorities in Ahmedabad and Surat to construct EWS and LIG housing, some of which was used for resettlement while some was allotted on a subsidized basis by a lottery system. For instance, in Surat, the SMC constructed 7424 EWS and 113 LIG flats during 1999-2007. At the time, as per definitions set by the Gujarat government, EWS households were those with a monthly income ceiling of Rs.2500 (annual income ceiling of Rs.30,000) and LIG households were those with a monthly income between Rs.2501-5500 (annual income range of Rs.30,001-66,000) (SMC n.d).

<sup>46</sup> The guidelines for PMAY Housing for All (Urban) define EWS households as those with an annual income up to Rs.3 lakh and LIG households as those with an annual income between Rs.3-6 lakh. States and Union Territories have the flexibility to redefine the annual income criteria as per local conditions in consultation with the Central government (MHUPA 2016a).

<sup>47</sup> Under BSUP, 46,856 houses were constructed in Surat, 20,112 in Ahmedabad; and 21,696 in Vadodara. (Data obtained from SMC, AMC and VMC, Feb-May 2017).

proof of residence in the settlement from prior to this date to be eligible to get a BSUP house.<sup>48</sup> In Ahmedabad the cut-off dates have changed over the course of the BSUP programme, often depending on the project under which evictions were done. For example, for the more than 11,000 households evicted under the Sabarmati riverfront project, the cut-off date changed from 2002 to 2007 to 2011 (see Desai 2014). In the past few years, the AMC has not used a clear cut-off date, sometimes even citing 1976 initially in eviction notices and then relaxing this to a more recent date (which is rarely stated in written form) or not using a cut-off date at all but still requiring that the evicted slum dwellers furnish documents showing proof of residence in the settlement.<sup>49</sup> While many evictees who are permanent urban poor have to struggle to get resettlement housing due to eligibility criteria creating explicit exclusions as well as anti-poor governance processes, migrant construction workers are most easily excluded from BSUP housing in case of eviction as they do not generally have residential documents for the city. Sewage Basti was a precedent case where BSUP housing was obtained for evicted migrant households despite their not having documents of the city. However, it is likely that this was achieved not only through mobilization, but also because the households were evicted under the Metro project which has a liberal resettlement policy (see RITES 2014), albeit one that the project authority tried to ignore initially. As per the policy, along with BSUP housing, the evicted households were also given monetary compensation for eviction. Sundarvan Basti is another settlement with many migrant construction workers which witnessed an eviction some years ago. The case is in the Gujarat High Court and it remains to be seen whether and how this materializes into resettlement housing.

Household eligibility for the SRS-type projects under the “Regulations for the Rehabilitation and Redevelopment of the Slums 2010,” then the Gujarat Slum Rehabilitation Policy 2013, and now the PMAY’s ISR projects is determined by a 1.12.2010 cut-off date. The household is required to furnish two proof documents (ration card, election card, electricity bill, name in the slum survey) for the slum in relation to this date. An AMC official explained that a cut-off date was there because the houses under ISR are given to the slum dwellers free-of-cost.<sup>50</sup> Eligibility for the EWS and LIG housing projects under MGAY includes a household income ceiling set by the Gujarat government.<sup>51</sup> The cities are free to determine other eligibility criteria. SMC’s MGAY projects have a cut-off date, requiring that the beneficiary be living in Surat since three or more years and furnish documents as proof of this.<sup>52</sup> AMC’s MGAY projects do not have a cut-off date but require the beneficiary to furnish residential proof documents for the city and not have a house within 8 km of the city.<sup>53</sup> For the AHP projects under PMAY, eligibility includes a household income ceiling (Rs.1 lakh for EWS housing) but there is no cut-off date.<sup>54</sup> Whether or not a cut-off date is applied, migrant construction

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<sup>48</sup> Discussion with Mr. H.S. Suthar, Executive Engineer, Slum Upgradation Cell, SMC, February 2017.

<sup>49</sup> AMC officials stated that in case of evictions no cut-off date is used currently (Discussion with Mr. R.B. Patel, Deputy City Engineer, Housing project, AMC, May 9, 2017). However, our ongoing research on evictions in the city shows a more complex scenario on the ground.

<sup>50</sup> Discussion with Mr. R.B. Patel, Deputy City Engineer, Housing project, AMC, May 9, 2017.

<sup>51</sup> Under MGAY, 5158 EWS and 4985 LIG units have been constructed by AMC; and 2296 EWS and 8721 LIG units by SMC. Under MGAY, as per definitions set by the Gujarat government, EWS households are those with annual income less than Rs.1 lakh and LIG households are those with annual income between Rs.1-2.5 lakh. (Data obtained from AMC and SMC, Feb-May 2017).

<sup>52</sup> Discussion with Mr. H.S. Suthar, Executive Engineer, Slum Upgradation Cell, SMC, February 2017.

<sup>53</sup> Discussion with Mr. R.B. Patel, Deputy City Engineer, Housing project, AMC, May 9, 2017.

<sup>54</sup> The municipal authorities are not involved in implementing PMAY’s CLSS vertical as the potential beneficiaries are to directly approach the banks. One would have to find out how the banks determine eligibility.

workers get excluded from the programmes since they do not have residential proof documents of the city.

An important point related to the eligibility criteria that require residential proof documents of the city is that migrant construction workers find it particularly difficult to build up proof of residence and identity in the city due to the lack of policies to address their pattern of migration. Many are not in the voters' lists of the city and do not have ration cards in the city since they are not ready to exchange their village documents for city documents given that their translocal lives span the village and city. The lack of documents turns out to be one of the biggest barriers to their inclusion. Even if some of them were willing to get these documents of the city now, they would continue to be excluded in the SRS-type programmes which use a 2010 cut-off date (whether or not they have been living in their settlements prior to 2010 as their documents would be from post-2010).

It should also be kept in mind that even if these household eligibility criteria did not exclude them, programmes such as MGAY and AHP exclude them by virtue of requiring substantial financial contributions from the beneficiary. An EWS house under MGAY and AHP requires a beneficiary contribution of Rs.3 lakh. The questions of eligibility would have to be addressed along with affordability. Moreover, housing affordability in the city is generally viewed from the notion that the household sees the city as its home and is therefore ready to invest in it for its future. However, given the translocal livelihoods and lives of seasonal migrant households, we would need to develop a better understanding of the extent to which they consider the city their home and the extent to which they are both able and willing to invest in their housing in the city.

The implication of slum and housing policies and programmes such as eviction and resettlement in BSUP housing as well as SRS-type programmes for migrant construction workers also manifests through the state's non-recognition of landlordism and tenancy in slums. Many migrant construction workers live as tenants in recognized and unrecognized slums. Many are also mobile tenants, in the sense that they may occupy different rental rooms every time they come to the city or every couple of years. Some live as families but the majority are single male migrants living in shared rental arrangements. The state considers all slum dwellers as informal occupiers rather than recognizing the varied tenure arrangements within a slum. As a result, when one of these programmes is implemented in a slum where a landlord also rents out several or more rooms to migrant workers, not only do the tenants have no way to build their claims on the room they are occupying but the landlord is also unlikely to get a resettlement/redeveloped house for every rental room given the documents he/she would have to furnish for each room. There is no research that tells us what happens to this kind of informal rental housing stock and the tenants under these programmes but there is a likelihood that this stock would decrease when resettlement or redevelopment occurs.<sup>55</sup>

Khandelwal et al (2012: 200) have observed that “the urban development discourse on shelter does not have a grounded perspective on seasonal migration. The perspective, if at all, is heavily inclined towards slum development, while most of the seasonal migrants are outside the slum population and hence invisible.” While there is some truth to this, it is not so much

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<sup>55</sup> Many beneficiaries of the BSUP units have converted them into informal rentals, and migrant construction workers may be living in some of these. But in these cases, the beneficiaries have gone to live elsewhere in the city, often closer to their workplaces, and these rental arrangements in the BSUP housing are not the same as the chawls where groups of migrant workers lived together across several rooms with one single landlord.

that most of the seasonal migrants *are outside* the slum population but rather that many of the seasonal migrants who squat on public or private lands are, as discussed above, *kept outside* the (official) slum population through the politics of slum recognition. Those who live as tenants in the slums are also not outside the slum population but the non-recognition of landlordism and tenancy keeps them invisible and thus deprived of any benefits under slum programmes. In fact, one can argue that also *kept outside* the (official) slum population by the politics of slum recognition are the scores of poor quality settlements of construction workers found on most construction sites. What our numbers of slums and slum dwellers would be if these are counted is anyone's guess. It is only those who live in the open, on pavements and street edges, under flyovers and bridges, who might be justifiably, if at all, considered as being outside the slum population since they are houseless altogether or set up temporary shelters only for the night.

An additional point of particular relevance for migrant workers' settlements in Ahmedabad which are on Railway lands is that the PMAY guidelines state that Central Government land owning agencies (such as the Railways) should undertake ISR on their lands occupied by slums or alternatively, if the slums on these lands need to be relocated, then the land for relocation should either be provided by the agency itself or the agency may collaborate with the State or city authorities for obtaining land (MHUPA 2016a). However, so far, the deadlock with the Railways regarding slums on their lands has largely been unresolved in Indian cities. As a result, the residents find it even more challenging to get resettlement when faced with eviction. This is the case of Sundarvan Basti in Ahmedabad which has large number of migrant construction workers.

## **4.2. Rental Housing**

The importance of rental housing in urban areas, especially for EWS and LIG groups, was recognized by the National Urban Housing and Habitat Policy (NUHHP), 2007 as well as the High Level Task Force on Affordable Housing for All, 2008 (MHUPA 2015). It is estimated that 27% of urban residents in India are living on rent with 95% of the rented dwelling units being informal and only 5% being formal (MHUPA 2015), revealing the immense demand for rental arrangements among the poor. Despite these numbers, mainstream housing policies and programmes for the urban poor have continued to remain biased towards ownership housing. A first concrete step in putting rental housing more squarely on the urban housing agenda was taken in 2015 with the drafting of the National Urban Rental Housing Policy (NURHP) (MHUPA 2015). The draft NURHP views the promotion of rental housing in urban India as a “catalytic force to achieve the overall goal of Housing for All by 2022” (MHUPA 2015: 7) and as one of the ways of preventing future growth of slums by providing an affordable housing option to poor migrants. Citing the magnitude of the housing shortage and budgetary constraints of both the Central and State governments, the Preamble states that beyond the efforts of the public sector, the approach would involve enabling legal and regulatory measures and encouraging involvement of private sector, cooperative sector, non-governmental sector, industrial sector (for labour housing) and the services/institutional sector (for employee housing), to promote rental housing in general (MHUPA 2015: 7). A comprehensive analysis of the policy is beyond the scope of this paper, and here we only consider the objectives and measures relevant to rental housing for seasonal migrant construction workers.

The draft NURHP outlines one of the policy objectives as promoting “Need Based Rental Housing” on short/mid/long term basis for migrant labour, noting that the majority of migrant

labour is either industrial or construction labour dependent on rental accommodation in cities. How is this policy objective to be achieved? The draft NURHP mentions that the government can (i) earmark a certain percentage of dwelling units for social/need-based rental housing under various Central / State-level housing schemes; (ii) encourage public private partnerships (PPP), special purpose vehicles (SPVs), and residential rental management companies (RRMCs) for the creation of social/need based rental housing; and (iii) design programmes and earmark budgets along with dovetailing of CSR and other funds like Labour Cess funds for the creation of social/need-based rental housing (MHUPA 2015: 16). It also mentions that urban local bodies should allocate land for need based rental housing (MHUPA 2015: 21). Elsewhere, for promoting rental housing more generally, the draft NURHP mentions encouraging “the formation of cooperative societies, municipal housing companies, neighbourhood associations, not for profit entities or other entities that would create, operate, maintain and manage rental housing stock” (MHUPA 2015: 20). In the same general vein, it refers to measures such as amending the Rent Control Act; implementing the Model Tenancy Act 2015 to formalize / regularize rental housing; providing fiscal and non-fiscal incentives to owners (e.g. exemption from stamp duty and property tax for a period of time, classifying rental housing as residential and not commercial for property tax and service charges calculations, etc); and providing incentives/subsidies to tenants (e.g. tax exemptions, housing vouchers). The relevance of these measures to the creation and management of need based rental housing for migrant workers is not articulated.

The preparation of an urban rental housing policy by the Central government is a welcome and much-needed step and some of the objectives and measures outlined in the draft NURHP are of relevance to providing housing to migrant construction workers in the city. However, the policy remains in draft form and has not been translated into a rental housing programme with clear guidelines and budgetary outlay. Ideally, PMAY-Housing for All should have had a set of rental housing “verticals” instead of simply focusing on “verticals” that promote ownership housing. Furthermore, as already discussed in Section 4.1.1, the ISR vertical under PMAY does not give any consideration to the existing informal rental housing in the slums. This would lead to a shrinking of the informal rental housing stock whose implications for landlords and tenants have not been considered. In fact, even the draft NURHP, despite stating in an annexure that States should recognize landlords and that many are often quite poor (MHUPA 2015: 35), does not give any indication as to how such recognition is to be achieved and integrated into slum-related programmes like ISR.

The PMAY (Urban) guidelines do mention that the Ministry of Labour will be requested to ask States/UTs to use cess funds in their Construction Workers Welfare Funds for creating rental housing stocks to workers (MHUPA 2016a: 18). It seems that some discussions in the Ministry have occurred since the Gujarat State Building and Other Construction Workers Board is currently exploring an idea for rental housing (discussed in Section 3.1.2).

The SMC is also currently developing a proposal for rental housing with a view to providing better housing for construction workers. It is not clear if the genesis of this initiative by SMC lies in the PMAY guidelines or the draft NURHP, both of which mention rental housing funded through the labour cess. In any case, SMC’s proposal is that it would provide land (plots reserved under the TP Schemes) and construct the rental housing mostly in the newly developing areas where majority of new construction is happening; the Building and Other Construction Workers’ Welfare Board would provide the finances for the construction from the large amount of cess that it has collected; and the builders (through associations like CREDAI, the apex body for private real-estate developers) would operate and maintain the

rental housing colonies or give money towards this. The idea is also that this rental housing is temporary, for a period of about 5 years, and will have to shift to new locations as the newly developing areas shift. The proposal, when ready, would be submitted to the State government. As a start, SMC intends to propose that it be given Rs.5 crore from the Board's cess. In the long-term, however, SMC also proposes that it be given the power to use the cess that it collects in Surat city. In our discussions with them, key SMC officials were dismissive of the tin-sheet housing currently provided to construction workers by builders and this proposal reflects their perspective that this is unacceptable housing and that the SMC can and should play a role in improving the situation.

The VMC had undertaken the construction of 400-500 rental units under RAY. This had been proposed with the idea of reaching out to the floating population—which would include migrant labour—however, even as the construction is being completed, VMC is veering away from using it for this population. There is a possibility that it will instead be used as transit accommodation for slum dwellers who would be beneficiaries of PMAY's ISR projects. In this case, the builder developing the ISR project would rent out the units from the VMC and accommodate the slum dwellers till the project is completed for them to move into their new houses. The VMC officials also expressed concerns about how to operate and manage this rental housing stock.<sup>56</sup> The VMC was no longer thinking about the role of the municipal corporation in housing migrant construction workers. The AMC seems to have never given thought to this. But when we explained the SMC's ideas in this regard, some officials in the AMC expressed an interest unlike in the VMC. It would be important to note here that the circumstances of the SMC and AMC versus the VMC are also very different, with the former two municipal corporations having a large land bank while the latter having almost no remaining land bank.<sup>57</sup> This also has implications for how city authorities that do not have land resources would be able to implement rental housing even if the NURHP is finalized.

### **4.3. Night Shelters to “Shelter for the Urban Homeless”**

Many Indian cities have homeless populations, or what the Census refers to as “houseless households,” who live in the open by roadsides, on pavements, in “Hume” pipes, under flyovers and staircases, and on railway platforms. These numbers increased from 1.87 lakh households in 2001 to 2.56 lakh households in 2011 in urban areas (Census of India 2001b; 2011b). In Gujarat's urban areas, houseless households increased from 16,686 in the 2001 census to 23,987 in the 2011 census. This involved an increase in the houseless population to 84,822. The numbers had increased in all the three cities of Ahmedabad, Surat and Vadodara and in 2011, the number of houseless households and houseless population in Ahmedabad was 3606 and 12,318, respectively; in Surat it was 11,169 and 36,144, respectively; and in Vadodara it was 2129 and 8611, respectively (Census of India 2001b; 2011b). Given the dynamic nature of this population, it is anyone's guess whether the Census captures these numbers adequately or not. Many of these are households of migrant workers.

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<sup>56</sup> Discussion with Mr. F. Charport, Former Deputy Municipal Commissioner (Housing) and currently Deputy Municipal Commissioner (West Zone), VMC, February 2017.

<sup>57</sup> Discussions with Mr. Thennasaran, Municipal Commissioner, SMC, February 2017; Mr. J.M Patel, Deputy Municipal Commissioner (Planning and Development), SMC, February 2017; Mr. Ketan Patel, Deputy Municipal Commissioner (Housing), SMC, February 2017; Mr. J.S Prajapati, Deputy Municipal Commissioner (Housing, Estate, Urban Development), AMC, May 2017; Mr. Vinod Rao, Municipal Commissioner, VMC, February 2017.

Night shelters or *rain baseras* began to be built for the homeless population from 2011 onwards as a result of the milestone orders by the Supreme Court beginning in January 2010. The major guidelines provided in 2010 by the Supreme Court (2010) were:

- i. All cities covered under JnNURM and with more than 5 lakh population should have one 24-hour homeless shelter with a capacity of 100 persons for every one lakh population.
- ii. There should be basic amenities provided in the shelters, which should include mattress, bed roll, blanket, portable drinking water, functional latrines, first aid, primary health facilities, de-addiction and recreation facilities etc.
- iii. 30 per cent of these should be special shelters (for women, old and infirm, recovery shelters).

Despite the court orders that the shelters should be open 24-hours, urban local bodies built shelters only for the night. In fact, many urban local bodies across India were slow to respond to the court orders. This was also true in Gujarat's cities. As per the Supreme Court guideline of one shelter for 100 persons for every one lakh population, 56 shelters were required in Ahmedabad, 29 in Surat and 15 in Vadodara. The National Report on Homelessness which reviewed the compliance of State governments with Supreme Court orders on shelters for the homeless found that as of December 2011, all three cities were significantly lagging behind (Supreme Court Commissioners, 2012).<sup>58</sup>

By 2014, some progress had been made in some of the cities but this still left much to be desired. The operation and maintenance of the night-shelters were sub-contracted out to non-governmental organizations (NGOs). The National Report on the Status of Shelters for Urban Homeless prepared in August 2014 found that Ahmedabad had built 45 shelters, all of which were operational (Supreme Court Commissioners 2014). Most of the shelters had been built under flyovers and infrastructure at the shelters was found to be of good quality. However, visits in 2014 to the city's night shelters by the Human Development Research Centre (HDRC) found that quite a few of the shelters did not have the basic services as mentioned in the Supreme Court order. Moreover, the National Report found that the total capacity of these shelters was 1960 persons as opposed to 4500 persons given the Supreme Court guideline of 100 persons per shelter. Most of the shelters had separate halls for men and women, however, since most of the city's homeless on the streetsides were families, the report noted that "the current concept of night shelters (that considers the homeless as an individual) does not meet this requirement." In one case, women living on the streetside outside were found to have been denied access. The HDRC visits in 2014 also found that caretakers were denying access to women in some shelters, caretakers were illegally collecting charges at some shelters, and some shelters had been occupied by anti-social elements.<sup>59</sup> In Surat, the National Report found that the Surat Municipal Corporation (SMC) had constructed 28 shelters but their capacity was only 1021 instead of 2800 (Supreme Court Commissioners 2014). It noted that the shelters were operational but had "been put up in haste, many over pay-and-use toilets

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<sup>58</sup> By March 2011, shelters had still not been built and the Gujarat High Court had to order the Gujarat State government to submit details of by when the shelters would be built (The Indian Express 2011). By December 2011, in Ahmedabad only one shelter had been built while 44 were under-construction. In fact, construction of 11 had stopped for some reason. In Surat, only 3 had been built and 22 were under construction. Moreover, locations were unsuitable, level of basic amenities was poor and there were no separate facilities for men and women. In Vadodara, 14 shelters were under construction and in three locations the construction had been stopped due to opposition from the area's higher and middle-class residents who felt that the night shelters would cause them inconvenience (TOI 2011).

<sup>59</sup> Based on data collected by HDRC in 2014 on the current status of the night shelters in Ahmedabad.

making them inaccessible to people with disability and elderly people.” The caretakers were found to be asking the homeless for ID cards and anti-social elements were creating a menace in some of the shelters. In Vadodara, the National Report found that the Vadodara Municipal Corporation (VMC) had built only five of 14 shelters (Supreme Court Commissioners 2014). While all five were operational, their total capacity was 295 as opposed to 500. The report noted that as existing community centres had been renovated as night shelters, they required additional toilets which are separate for men and women.

It is not clear to what extent migrant construction labour have been using the night shelters in the three cities. In Ahmedabad, although a comprehensive survey has not been done, we know from the few visits carried out by us and NGOs working with migrant labour that single male migrant construction labourers use some of the night shelters extensively. However, since these shelters have been open only in the night, this has been a major hindrance for them. They cannot store their belongings at the shelter and as daily-wage workers, they do not always get work at the naka and therefore may require shelter in the day-time as well. Many construction labour migrants from Gujarat’s north-eastern tribal districts also come as families and the separation of men and women in the shelters means that the shelters are not conducive for families. In some areas of Ahmedabad, these tribal families live on the footpath right next to the night shelter. In Surat and Vadodara, municipal officials expressed that their experience was that the shelters were not being used much.

There is no information about the extent to which night shelters in other Indian cities have been used by migrant construction workers, however, we do know that implementation of the night shelters was poor in many other cities also.<sup>60</sup> In Delhi, the shelters, which are set up by the Delhi Urban Shelter Improvement Board (DUSIB), seem to be better operated. They are open 24x7. There are 262 shelters in all with a capacity of 21,000 persons, and recently mohalla clinics have been started at three of the shelters (Janwalkar and Mathur 2016).<sup>61</sup> The Supreme Court and Delhi High Court has played a major role in pushing the government to get this far. Some initiatives from NGOs have also sought to extend support to the night shelters. Humana People to People India (HPPI) and Azim Premji Philanthropic Initiatives joined hands in December 2016 to establish a Homeless Resource and Service Centre (HRSC) with outreach activities to 10 night shelters including surrounding gathering places for homeless citizens. The HRSC is to have a help desk unit which would provide help with access to social welfare schemes, legal help, job linkage / job counseling, conflict counselling and help to victims of domestic violence (HPPI n.d).

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<sup>60</sup> For instance, Pune required 38 night shelters as per the Supreme Court guidelines, however, a survey of the homeless in 2011 by the Pune Municipal Corporation (PMC) to identify locations for the shelters found only 1594 homeless persons in the city. PMC therefore decided to construct only 16 night shelters. Moreover, as of February 2016, only four were constructed as in many other locations there was opposition from corporators who do not want them to be set up in their electoral wards. Furthermore, the four shelters had a capacity of only 177 as opposed to the required 400, and furthermore, even this capacity was underutilized (Khape 2016). The underutilization also suggests that either the homeless do not know about the shelters or the shelters are not built and operated in a manner that takes account their actual needs, therefore dissuading them from using the shelters. Bengaluru was to have 100 night shelters as per the Supreme Court guidelines, however, while 12 were operational in 2013, by March 2016, the city had barely five functioning shelters (Rao 2016). Although a number of the shelters were being used beyond their capacity, many of them were shut down due to the Bruhat Bangalore Mahanagara Palike not paying the NGOs running the shelters. The shelters had become decrepit due to the unavailability of funds for upkeep.

<sup>61</sup> Not all are permanent buildings and some shelters are in the form of tents, subways and recovery centres.

While these shelters were built as a result of Supreme Court intervention, this could be seen as the first step in a process that will gradually mainstream shelters for the urban homeless in Indian cities. In September 2013, the Ministry of Housing and Urban Poverty Alleviation (MHUPA) launched the National Urban Livelihoods Mission (NULM) which includes a Scheme of Shelter for Urban Homeless (SUH).<sup>62</sup> NULM and SUH implementation has only just begun in the cities, three years after the programme was launched. The SUH scheme seeks to improve upon the shelters constructed in the metro cities for the homeless. The NULM Mission document thus refers to the “pronouncements of the Supreme Court of India which have brought into focus the plight of the urban homeless by holding that the right to dignified shelters is a necessary component of the right to life under Article 21 of the Constitution of India” (MHUPA 2013a: 5). It goes on:

“Urban homeless persons who live without shelter or social security/ protection are the most vulnerable class, even while they contribute towards sustaining cities with their cheap labour. Life on the streets involves surviving continuously at the edge, in a physically brutalized and challenging environment. There is a need for appropriate policy intervention to address the challenges faced by homeless people, with regard to shelter, social housing and social protection. Accordingly, NULM would aim at providing shelter equipped with essential services to the urban homeless in a phased manner” (MHUPA 2013a: 8).

The shelters built under the SUH are to be permanent 24-hour shelters with basic facilities like water supply, sanitation, electricity, kitchen / cooking space, common recreation space, safety and security. The SUH guidelines suggest that nominal charges be collected as rent depending on the income levels of the urban homeless at rates ranging from 1/10 to 1/20 of their income so as to bring in commitment of the beneficiaries. The rent is meant to create a fund which is to be utilized for maintenance of the facilities (MHUPA 2013b).<sup>63</sup>

The NULM Mission document (MHUPA 2013a) and the SUH guidelines (MHUPA 2013b) recognize that the urban homeless comprise of various groups—single men, single women / mothers, families, as well as extremely vulnerable groups like dependent children, aged, disabled, mentally ill and recovering patients. They propose to therefore create separate shelters for these groups or special sections within homeless shelters for them. The SUH guidelines also point out that attention has to be given to location, design, services and support systems vis-à-vis most of these groups. The guidelines state that “the shelters be located close to homeless concentrations and work sites as far as practicable, and thus may be located close to the areas where the poorest congregate like railway stations, bus depots, terminals, markets, wholesale mandis etc” (MHUPA 2013b: 4). They go on to suggest that the Urban Development Projects Formulation and Implementation (UDPFI) guidelines and Master Plans be suitably amended to permit construction of such shelters in public and semipublic use zones, industrial and recreational areas. Along with standard norms such as one shelter for a minimum of 100 persons for every one lakh population and 5 sq.m. per person as the minimum space to be provided in a shelter, the guidelines also outline some design-related aspects such as family shelters needing special design for privacy, shared common spaces, etc.

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<sup>62</sup> The NULM replaced the existing Swarna Jayanti Rozgar Yojana. The focus of the NULM is on organizing the urban poor in grassroots-level institutions, creating opportunities for skill development leading to market-based employment and helping them to set up self-employment ventures by ensuring easy access to credit. Under the Twelfth Five Year Plan (2012-17), NULM is to be implemented in 790 cities. These are all cities over one lakh population and all district headquarter towns irrespective of population size. (MHUPA 20131)

<sup>63</sup> For those with no payment capacities, total exemption could be granted (MHUPA 2013b).

The NULM Mission document (MHUPA 2013a) and the SUH guidelines (MHUPA 2013b) also emphasize that linkages should be established with entitlements. The shelter is to be made a space for “linkages with other programmes which cover the right of the urban homeless to food, healthcare, education, etc. and ensure access for homeless populations to various entitlements, including to social security pensions, PDS, ICDS, feeding programmes, drinking water, sanitation, identity, financial inclusion, school admission etc., and to affordable housing” (MHUPA 2013a: 9). The Mission document states that homeless persons in shelters should be given priority under various schemes because “the homeless are unable to access many services due to lack of documentary proof such as address and birth proof etc” (MHUPA 2013a: 22). Relating to this, each shelter is to have a community kitchen for the provision of healthy and hygienic food at affordable rates to the poor (MHUPA 2013a). Fully subsidized meals are to be given for the elderly, disabled and children; and partially subsidized meals may be given for all other shelter residents (MHUPA 2013b).

While the scheme has immense potential, it remains to be seen where the shelters are located; how they are designed and managed; whether and how they become a space for ensuring access to entitlements for the urban homeless; and to what extent they are appropriate for migrant construction workers, both single males and those who migrate with families. For the schemes to reach both these groups, the local governments would have to understand and respond to their specific needs. However, our discussions with municipal officials revealed that not much was being done in this direction. In Surat, the SMC officials are planning to construct dormitory-style shelters for 244 persons in the developed areas of the city, near railway stations and bus-stands, since they are of the opinion that the homeless are concentrated in these areas whereas any kind of housing for construction workers needs to be located in the city’s newly developed areas as construction work is concentrated here.<sup>64</sup> This perspective does have some merit, however, daily-wage construction workers go to nakas across the city including in the central developed areas, and it is likely—as we have found in Ahmedabad—that some of them, including families, are homeless, living nearby the nakas in the open, on footpaths and under flyovers. The dormitory-style shelters are unlikely to reach these migrant families.

In Vadodara also, municipal officials did not think that the shelters were appropriate for migrant construction labour but the reasons given were different. According to a deputy municipal commissioner, the reason was that construction workers have jobs and therefore self-respect, as a result of which they do not use the shelters which are frequented by beggars, drunkards and drug-users. At one point in the discussion he stated that migrant labour did not sleep in the open in Vadodara and then at another point in the discussion he stated that migrant labour is habituated to sleeping in the open except in the monsoon. When we suggested that migrant construction labour could benefit from the 24-hour shelters, his response was that if the government started providing 24-hour shelters then people would stop working and become habituated to not working. In Vadodara the problematic perceptions of government officials vis-à-vis both migrant labour and the role of homeless shelters will be a key issue in how the SUH scheme unfolds.

In Ahmedabad, the night shelters were transferred from the AMC’s Housing department to its Urban Community Development (UCD) department in early 2017. The UCD department had

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<sup>64</sup> Discussion with Mr. R.C. Jariwala, Executive Engineer, Housing, SMC, February 2017.

begun to identify shelters for refurbishing them under the SUH scheme. Since the transfer was quite recent, the UCD officials were yet to formulate clear ideas about how the refurbishment and it was not clear whether they will give serious consideration to the possibility of creating family shelters that could benefit migrant families.<sup>65</sup>

#### **4.4. Welfare Programmes: Food, Health, Education**

In the Indian federal system, people derive their entitlements through the fundamental rights conferred on them by the Indian Constitution and the various laws enacted by the Central and State governments (Kumar 2011). However, the realization of many entitlements, including to food, health facilities and education, depends on the welfare programmes formulated and implemented by the Central and State governments. Most of the Central government programmes are applicable throughout India, however, they are implemented by the State or local governments and their benefits are usually place-bound and are available only to the permanent residents of the respective State. In other words, there is no portability of entitlements. Proof-of-residence documents such as the ration card and voter ID card are not only required to access these programmes but they give access to the entitlements only in the State—and sometimes only in the village / town / city—mentioned in the residential address on the document.<sup>66</sup> Those who migrate to other places within the State or to other States for work cannot access these entitlements and benefits as they do not have these proof-of-residence documents for their work destinations (Deshingkar 2009, Kumar 2011, Bhagat 2014). A few key examples of welfare programmes and the implications for migrant construction workers' access to the entitlements they give to food, health facilities and education are outlined below. This is based upon secondary sources only given the scope of the study. Primary research would be required to better understand the issues that migrant workers face with these and other programmes, as well as identify the gaps in terms of how these entitlements can be better realized.

The National Food Security Act 2013 provides entitlements to food through the administrative mechanism of the Public Distribution System (PDS) which supplies subsidized foodgrains to the poor through fair price shops (known as ration shops) administered locally by the State/UT which creates beneficiary lists. A ration card, one given to each family, is required to access these subsidized items, however, this access is possible only at the place (town, city, etc) mentioned in the card in the family's residential address. Migrant construction workers to the city cannot therefore access their food entitlements at their work destinations. As the recent "Working Group on Migration" appointed by the Ministry of Housing and Urban Poverty Alleviation note:

"Existing administrative infrastructure for food security . . . often results in migrants losing access to their food security entitlements upon moving to a different location, both within and particularly outside the state. Consequently, migrants become vulnerable to malnutrition and resultant health complications. These are particularly pronounced among women and children migrants, whose maternal and child health indicators tend to remain poor." (MHUPA 2017: 29-30)

The Working Group has recommendations for how these entitlements could be made portable, both for intra-state migrants as well as for inter-state migrants.

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<sup>65</sup> Discussion with Dr. Yogesh Maitrak, Director, UCD department, AMC, March 4, 2017.

<sup>66</sup> Many welfare schemes are linked to the ration card in the BPL (Below Poverty Line) category. City authorities intermittently carry out surveys of Below Poverty Line households.

Migrants' access to health care facilities at their work destinations is also poor. This is due to a number of reasons such as expensive private health facilities, conflict between time of work and availability of medical practitioners, cost of missing hours or days of work, long distance to access services and associated problems of transportation, perceived alienation from government health systems at the destination and language difficulties (MHUPA 2017). The National Health Insurance Scheme (Rashtriya Swasthya Bima Yojana or RSBY) is a Central government sponsored health insurance scheme for poor families with "the twin objectives of providing financial protection against catastrophic health costs, and improving access to quality health care for vulnerable groups in the unorganized sector" (MHUPA 2017). At a nominal registration fee, the scheme provides for an yearly coverage for in-patient care (at a RSBY empanelled hospital) of up to Rs. 30,000 to five members of a family. It is one of the few schemes where some consideration to migration is given. Thus, BPL families with one or more migrating members can split the RSBY card at the time of first issue or subsequently at a district level office, and both the migrating members as well as his/her family members who remain at home can access the scheme from their respective locations. The families of migrant workers do not, however, seem to be making use of this facility (Mahadevia 2012). Perhaps awareness amongst migrant labourers is an issue and it is possible that migrant helplines can impart this and other useful information. The Gujarat Building and Other Construction Workers' Welfare Board has begun to take the RSBY to construction workers, although the modality through which this is being done remains to be examined (see Annexure 4).

The Integrated Child Development Services (ICDS) is a Central government scheme targeting children below the age of six, pregnant women and lactating mothers, who are provided with nutritional and health support. The scheme is administered at the local level through anganwadis, allocated on the basis of population, which maintain lists of beneficiaries in their jurisdiction (MHUPA 2017). It has generally not reached out to migrant workers and their children as the migrant population is not surveyed by the local authorities in their planning for anganwadis. However, there is no bar of domicile or residency in the scheme and it is possible for the scheme to cover migrating women and their children, but this would "require more focus on the planning process in terms of assessing resources needed to cover such additional beneficiaries" (MHUPA 2017).

The Migration Card initiative was introduced in Gujarat in 2001 to track school-going children migrating along with their parents within the state or from other states. There is an overlap between the academic session in schools (June-April) and the seasonal migration cycle (November-June), owing to which migrant children who are enrolled attend school only from June-November, following which they drop out or report irregular attendance. The main objective of the Migration Card initiative is to avoid dropout and ensure the continued education of children during the period of migration. The Sarva Shiksha Abhiyan (SSA) in Gujarat used this initiative at first to provide temporary admission to migrating children in schools near their parents' workplace accommodate and later to educate migrant children in seasonal hostels or in Tent Special Training Programmes set up at the worksites of their parents (Sherry-Chand and Amin-Choudhury 2006; Niti Aayog 2015). While the initiative has been recognized as a best practice, experiences of NGOs working with migrant construction workers with the officials responsible for implementing the initiative has not been promising. Nonetheless, as a concept, there is potential in the initiative and primary research would be required to understand implementation issues and how access to education can be improved for migrant children.

## 5. Conclusion and Way Forward

Seasonal migrant workers are not recognized as citizens in the city. With interventions in Indian cities being driven by exclusive imaginations of “global cities” and “world-class infrastructure,” and more recently of “smart cities,” the urban poor and low-income residents of the cities have often been thrown by the wayside. In this scenario, what space is there for making our cities more supportive and inclusive towards seasonal migrant workers and their families? Perhaps the answer partly lies in continuing to carve out spaces through critical research that can better inform the range of stakeholders in our cities. This paper is an attempt in this direction. Moreover, even as exclusive imaginations of smart cities are doing the rounds and are beginning to shape urban spaces on the ground, parallel processes are at play. Over the last few years, there has been an increasing recognition in some policy and government circles of the scale of internal labour migration and the need to address it in the urban destinations. The Habitat III National Report from 2016 stated that the Ministry of Housing and Urban Poverty Alleviation had “set up a working group to study the impact of migration on housing, infrastructure and livelihood in urban areas so that appropriate product mix of housing supply market catering to migrant population of various income segments can be devised along with infrastructure and livelihood support programmes” (MHUPA 2016b). The working group’s report was completed in January 2017 and is now in the public domain (MHUPA 2017). This is clearly an important moment then for researching the migrant worker and housing question in cities and stepping up policy advocacy on this front.

This background policy paper has covered a lot of ground in an attempt to chart out the existing legislative, policy and governance context shaping the entitlements of migrant construction workers to housing, basic services and social infrastructure in the city. In conclusion, its main findings are presented below through a discussion around six key points, which also present some potential directions for further research and policy advocacy:

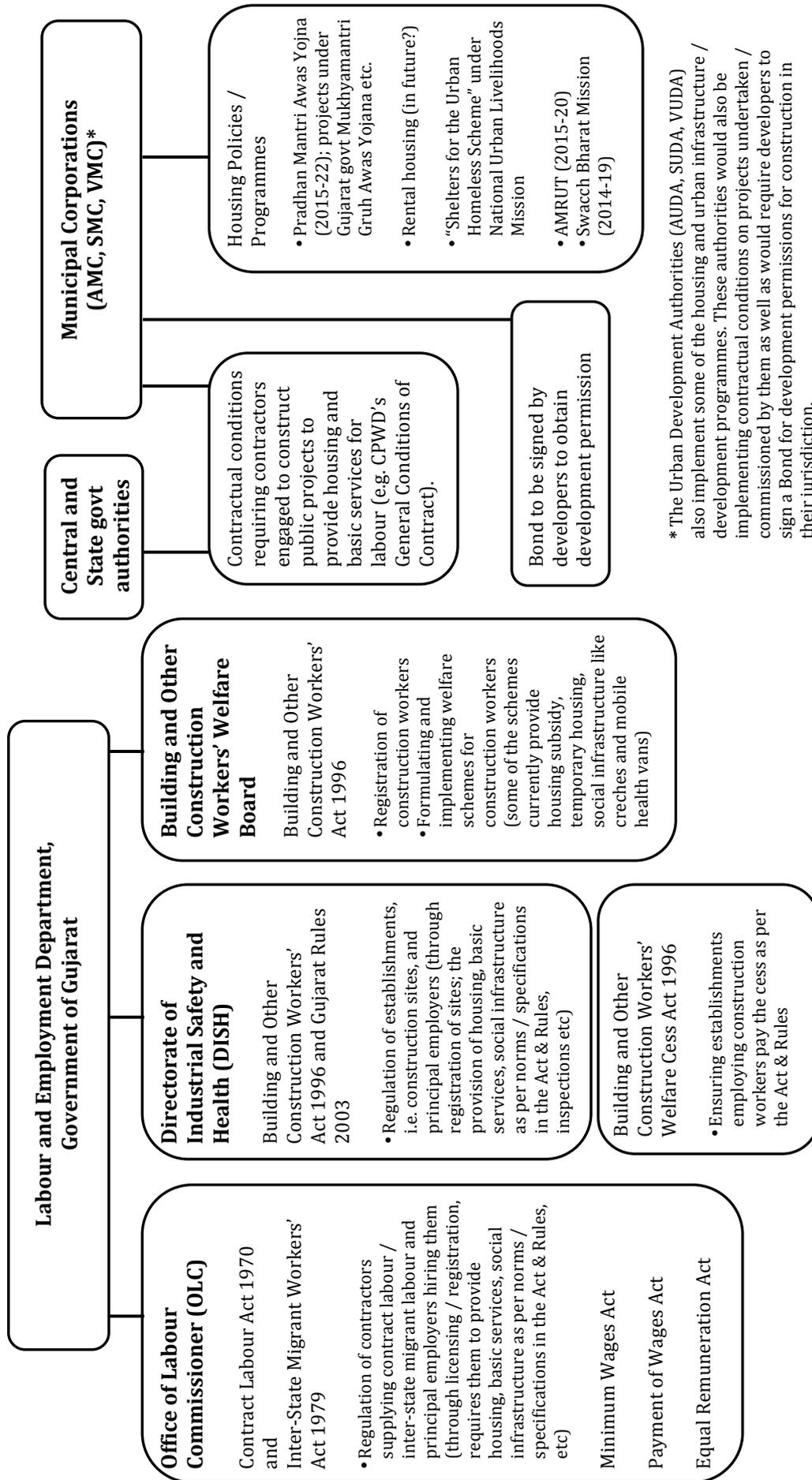
- i. legal provisions and norms vis-a-vis housing, basic services and social infrastructure for construction workers at construction sites
- ii. governance for enforcing legal provisions and norms vis-à-vis housing, basic services and social infrastructure for construction workers at construction sites
- iii. role of mainstream slum and housing policies and programmes in provision of housing and basic services for migrant construction workers living off-site
- iv. role of rental housing for migrant construction workers living off-site
- v. role of homeless shelters for migrant construction workers living off-site
- vi. role of the Gujarat Building and Other Construction Workers’ Welfare Board vis-à-vis housing, basic services and social infrastructure for migrant construction workers living on-site and off-site

Migrant construction workers, broadly speaking, live in on-site or off-site settlements. In the former case they are generally recruited in their villages by intermediaries like mukkadams as members of labour gangs while in the latter case they go to the nakas in the city to look for daily wage work. The six key points discussed here look into how workers’ entitlements to housing, basic services and social infrastructure are shaped for both groups of workers, be they single male migrants or those who migrate with family members.

### **Legal provisions and norms vis-a-vis housing, basic services and social infrastructure for construction workers at construction sites**

A number of regulatory instruments have provisions and norms vis-à-vis housing, basic services and social infrastructure for construction workers at construction sites. This paper

**Key institutions shaping construction workers' entitlements to housing, basic services and social infrastructure in Gujarat's cities**  
 (Central government's role in shaping labour legislation and urban policies is not included here)



has discussed three main labour laws—Contract Labour Act and the Central Rules; the Inter-State Migrant Workers (ISMW) Act and the Central Rules; the Building and Other Construction Workers (BOCW) Act and the Gujarat BOCW Rules—and two additional instruments, the contractual conditions put forth by the CPWD when it hires contractors to construct public projects and the bond signed by developers/contractors for obtaining development permission from the AMC. There is poor implementation of these provisions and norms as well as limitations in their very conception. A quick comparison across the regulatory instruments summarizes the findings on this front.

The provisions and norms of the BOCW Act and the Gujarat BOCW Rules apply to establishments, that is, construction sites, employing 10 or more workers and in which total cost of construction is more than Rs.10 lakh. Those of the Contract Labour Act and Rules apply to establishments employing 20 or more contract workers whereas those of the Inter-State Migrant Workers Act and Rules apply to establishments employing five or more inter-state migrant workers. The CPWD's contractual conditions apply to the construction sites of all projects undertaken by this public authority. The Bond that developers/contractors sign for obtaining development permission from the AMC applies to construction projects in the city authority's jurisdiction.

The provisions and norms vis-à-vis housing, basic services and social infrastructure provision vary across the three labour laws. The ISMW Act and Rules are the most expansive while the BOCW Act and particularly the Gujarat BOCW Rules leave much to be desired. The ISMW Rules have the most expansive provisions and norms for residential accommodation. A quarter of minimum 10 sq.m. room, verandah and covered space for cooking is to be provided for every migrant worker accompanied by any other member of his family, with one latrine and one bathroom for every three such quarters. In case of single male migrant workers, a residential barrack is to be provided for not more than 10 workers, with minimum 6.5 sq.m. area per worker, with one latrine and one bathroom for 10 such workers. The Contract Labour Rules have provision and some basic norms for rest-rooms for workers to halt for the night. The BOCW Act has provisions for free temporary accommodation which should have separate cooking place, bathing, washing and lavatory facilities but not only do the Gujarat BOCW Rules not provide detailed norms for this, but they do not even mention accommodation. This leaves a lot of space for employers and officials to interpret what is legally acceptable temporary accommodation under the BOCW Act.

All the three Acts / Rules mention that adequately lighted and maintained latrines and urinals are to be provided at construction sites for workers at conveniently situated and accessible locations, but only the ISMW Rules and Contract Labour Rules have detailed norms for this provision (1 latrine for 25 men, 1 latrine for 25 women, and so forth). The ISMW Rules require a crèche to be provided where 20 or more workers are employed (it also mentions that employment should be for a period of 3 months or more) whereas the BOCW Act requires a crèche to be provided on sites where 50 or more female workers are employed (regardless of employment duration). The Gujarat BOCW Rules do not mention crèche provision at all. Nor do the Contract Labour Act and Rules.

The CPWD contractual conditions have provisions and norms for latrines, urinals and residential accommodation which are largely similar to those in the ISMW Rules but with additional details about construction materials to be used for the accommodation (sun-dried or burnt bricks in mud mortar or “other suitable local materials”). Unlike any of the laws, the CPWD contractual conditions also give detailed norms about amount of water to be provided

for drinking and washing as well as outline requirements for drainage, the source of water supply and storage method, and means of excreta disposal. The only facility that is absent in the CPWD contractual conditions is a crèche. By signing the Bond which is part of the AMC's development permission process, the developer/contractor states that he undertakes to provide temporary housing for the construction workers and their family members on the construction site or on one of his other private plots; make sufficient provisions to meet their sanitation needs; and ensure that the workers will not encroach on any public space. No norms are specified which makes the Bond almost meaningless (however, as discussed later, this need not be the case and the Bond can play a crucial role in regulating construction sites vis-à-vis these provisions).

Who is responsible for providing this housing, basic services and social infrastructure? The BOCW Act and the AMC's development permission process places the responsibility of this provision on the principal employer. The CPWD (or any other public authority that undertakes a public project) is the principal employer under the BOCW Act, but their contractual conditions place the responsibility on the main contractor engaged by the authority to undertake the construction. The Contract Labour and ISMW Acts place the primary responsibility of this provision on the contractors who recruit the workers. The principal employers are to ensure this provision only if the contractors do not do so. However, many of the contractors who recruit workers in the construction industry may not be robust enough to make these provisions. In theory, the payments that these contractors negotiate with the principal employer could factor in the costs of this provision but in reality it is not clear whether they have adequate power or interest in doing so.

In the context of the overwhelmingly poor implementation of the Contract Labour Act /Rules and ISMW Act / Rules and their unrealistic requirement that contractors recruiting the workers provide housing, basic services and social infrastructure, it would be most productive to focus on strengthening the implementation of the provisions and norms vis-à-vis housing, basic services and social infrastructure under the BOCW Act and the Gujarat BOCW Rules. However, as discussed above, the provisions in the Gujarat BOCW Rules are very weak. There is a need to consider how these provisions can be expanded and norms can be specified, perhaps along the lines of the ISMW Rules or even the CPWD contractual conditions. Advocacy could play an important role in taking this forward. The Bond which is part of the development permission process is a potentially important instrument for regulating provision of housing, basic services and social infrastructure for construction workers at construction sites, however, its provisions are too minimally articulated to be meaningful. Clearly, the provisions need to be strengthened. The Bond could be linked to the provisions and norms in the BOCW Act and Gujarat BOCW Rules but as already explained, the latter need to be modified first. There may also be a possibility for the city authority to independently introduce better provisions and norms in the Bond that supercede the Gujarat BOCW Rules in areas under its jurisdiction. In this context, it might also be useful to do further research on the contractual conditions put forth by other public authorities such as the city authorities and State government authorities since they undertake many public projects in the city. Additionally, governments are also undertaking public projects in cities through loans from international organizations and agencies who may require compliance to specific labour-related norms. Research on this front would also be useful.

Of course, legal provisions and norms are only a first step and will be meaningless unless they are effectively enforced. This is a major governance issue which is discussed next.

## **Governance for enforcing legal provisions and norms vis-à-vis housing, basic services and social infrastructure for construction workers at construction sites**

Registration of establishments, that is, construction sites, and inspections under the BOCW Act are imperative for enforcing provisions and norms vis-à-vis housing, basic services and social infrastructure for construction workers at the construction sites. Many employers register their construction sites, however, it could be that many others are not. In fact, there is simply no data to know what percentage of sites are being registered. Moreover, even at the registered sites, implementation of these provisions is generally poor due to the disinterest of the employers as well as governance issues.

This paper has examined the role of key institutions responsible for governance vis-à-vis provisions of housing, basic services and social infrastructure at construction sites. This includes two wings of the Labour and Employment Department: the Office of the Labour Commissioner (OLC) for the implementation of the Contract Labour and ISMW Acts; and the Directorate of Industrial Safety and Health (DISH) for the implementation of the BOCW Act. The discussions in this paper reveal some of the main reasons for their weak governance on this front. One reason is the attitudes towards unorganized labour and migrant labour and the reluctance to enforce many of the laws and their provisions. This was manifested in government officials in the OLC and DISH blaming the migrant workers for their conditions (declaring that the workers are habituated to living in poor conditions on the construction sites; that workers do not register complaints under the ISMW Act, etc). It was also manifested in the OLC's attitude that the BOCW Act is the only law that is relevant for addressing migrant construction workers and therefore responsibility for these workers lies with the DISH; and in DISH officials grudgingly seeing the implementation of the BOCW Act as their mandate since DISH was set up for implementing the Factory Act while the implementation of the BOCW Act was given to them as an additional charge but without giving them additional resources. The DISH thus has had inadequate staff to carry out inspections at factories, let alone construction sites under the BOCW Act. Thus, personal attitudes of state officials intersect with a broader state attitude towards labour which leads to inadequate institutional and budgetary capacity for the concerned government departments to be effective enforcers of the labour laws. The Gujarat government has recently recruited 20 officials for inspections of construction sites. It remains to be seen whether this improves compliance to the BOCW Act and the Gujarat BOCW Rules, and what the implications for workers' access to housing, basic services and social infrastructure will be since the Act and Rules have weak provisions on this front.

A related reason for poor enforcement is that the DISH has information only on the registered construction sites and no data on the total number and location of construction sites in the city. It also has no mechanism to prepare such data. However, the municipal corporations and urban development authorities which give development permissions have this data for their areas of jurisdiction. Coordination might be possible so that this data can be collated and shared with the DISH and it can more easily identify unregistered sites. Another possibility worth exploring is whether and how registration of construction sites under the BOCW Act (with the registering officer at DISH) can be coupled with the giving of development permission and labour cess collection (by the city authority).

While the paper has examined governance by the OLC and the DISH vis-à-vis the labour laws, it has not examined governance by public authorities (the CPWD, city authorities, State government authorities) vis-à-vis the contractual conditions that govern the responsibilities of

the contractors they hire for constructing public projects. Future research could look at this governance. It would also be useful to look at the governance by the city authorities who give development permissions. This could involve looking at what kind of data the city authorities have about the construction sites in their jurisdictions as well as whether they carry out inspections at the construction sites after giving development permissions to monitor compliance with the Bond's clause regarding temporary housing and sanitation for the workers. It may also be worthwhile to explore if the city authorities can map the construction sites for which development permissions are given since this could help in identifying clusters of construction sites where crèches and maybe even rental housing can be provided at a cluster-level rather than at individual sites. This might be particularly relevant in cases where the sites are not large and therefore are not required to provide a crèche under the BOCW Act or do not have the space to provide housing on-site.

### **Role of mainstream slum and housing policies and programmes in provision of housing and basic services for migrant construction workers living off-site**

The paper has discussed mainstream slum and housing policies and programmes such as the Basic Services to the Urban Poor (BSUP) sub-mission of the Jawaharlal Nehru National Urban Renewal Mission (JNNURM); the Rajiv Awas Yojana (RAY); the In-Situ Slum Redevelopment (ISR) and Affordable Housing in Partnership (AHP) programmes of the Pradhan Mantri Awas Yojana Housing for All (Urban); the Gujarat government's SRS-type projects under its 2010 regulations and 2013 policy; and its Mukhyamantri Gruh Awas Yojana (MGAY). The discussion has revealed some of the ways in which a bias against seasonal migrant labour is manifested in these policies and programmes.

This bias is manifested, first, through the politics of slum recognition. Slum programmes as well as municipal provision of basic services (water, drainage, sewerage, toilets) to slums are implemented only in slums recognized by the city authorities. Generally these are the notified slums and other slums acknowledged in the slum surveys/lists of the city authorities. Slums not included in these surveys/lists are generally ineligible for these programmes and for municipal services provision. In the past, the criteria for slum recognition was rarely stated clearly even as it was driven by duration of the slum's existence, size, landownership and electoral politics. The criteria for recognizing slums and including them in slum surveys/lists are being clearly stated in recent years and have become almost all-inclusive. For instance, the slum survey under the Rajiv Awas Yojana (RAY), the Central government programme launched in 2009 to create "slum-free cities," was to include all slums comprising of at least 20 households regardless of notification, landownership and tenability (MHUPA 2011). The methodology for the RAY slum survey in Ahmedabad relaxed this criterion even further, stating that all slums comprising of at least 10 households were surveyed (AMC n.d). However, the fact is that not all slums as per this criterion were included in the RAY survey and many settlements comprising of seasonal migrant construction workers were left out. This reveals a continuing politics of slum recognition as in the past, the difference being that now this politics is masked by a stated claim to inclusiveness even as it excludes, without clearly saying so, settlements with large numbers of seasonal migrants.

The politics of slum recognition that continues to leave certain settlements unrecognized leads to denial of basic services by the municipal authorities to these settlements. Infrastructure for basic services of water supply and sewerage is receiving much attention in cities under AMRUT, a Central government "mission" launched in 2015 whose objectives include ensuring that every household has access to a tap with assured water supply and a

sewerage connection, and the Swachh Bharat Mission (SBM), a Central government “mission” launched in 2015 whose objectives include elimination of open defecation. The question is whether unrecognized settlements will be provided these services under these programmes. Unlike AMRUT which is silent on the question, SBM guidelines proactively allow for provision of household or community toilets in unrecognized slums, however, three years into SBM it is unclear if the city authorities are following these guidelines. The SBM guidelines also explicitly recognize migrants and construction labour as special focus groups, requiring that “all temporary accommodation for migrants and the homeless in urban areas have adequate provision for toilets either on the premises or linked to a public / community toilet.” However, this ignores the fact that few migrants and homeless still live in temporary accommodation (which presumably refers to night or 24-hour shelters).

The bias against seasonal migrant labour is also manifested through household eligibility criteria used by city authorities for determining the beneficiaries in slum and EWS/LIG housing programmes. Whether or not a cut-off date is applied (not all the programmes use cut-off dates), migrant construction workers get excluded from the programmes since they do not have residential proof documents of the city. They find it particularly difficult to build up proof of residence and identity in the city due to the lack of policies to address their pattern of migration. Many are not in the voters’ lists of the city and do not have ration cards in the city since they have these for their villages and are not ready to exchange their village documents for city documents given that their translocal lives span the village and city. Even if some of them were willing to get these documents of the city now, they would continue to be excluded in the SRS-type programmes which use a 2010 cut-off date. Furthermore, even if these household eligibility criteria did not exclude them, programmes such as MGAY and AHP exclude them by virtue of requiring substantial financial contributions from the beneficiary. The questions of eligibility would have to be addressed along with affordability which needs to be understood in the context of the translocal lives of seasonal migrants.

In this regard, Sewage Basti is a precedent case where BSUP housing was obtained for evicted migrant households despite their not having documents of the city. However, it is likely that this was achieved not only through mobilization, but also because the households were evicted under the Metro project which has a liberal resettlement policy (see RITES 2014), albeit one that the project authority tried to ignore initially. As per the policy, along with BSUP housing, the evicted households were also given monetary compensation.

The implication of many of the mainstream slum and housing policies and programmes—such as eviction and resettlement in BSUP housing and SRS-type programmes—for migrant construction workers also manifests through the state’s non-recognition of landlordism and tenancy in slums. Many migrant construction workers live as tenants in recognized and unrecognized slums. Some live as families but the majority are single male migrants living in shared rental arrangements. The state considers all slum dwellers as informal occupiers rather than recognizing the varied tenure arrangements within a slum. As a result, when one of these programmes is implemented in a slum where a landlord also rents out several or more rooms to migrant workers, not only do the tenants have no way to build their claims on the room they are occupying but the landlord is also unlikely to get a resettlement/redeveloped house for every rental room given the documents he/she would have to furnish for each room. What happens to these migrant worker tenants in such instances is a question for future research.

A final point is with regard to implementing these mainstream policies and programmes on Railway lands where several migrant workers’ settlements have come up in Ahmedabad. The

PMAY guidelines state that Central Government land owning agencies such as the Railways should undertake ISR on their lands occupied by slums or alternatively, if the slums on these lands need to be relocated, then the land for relocation should either be provided by the agency itself or the agency may collaborate with the State or city authorities for obtaining land (MHUPA 2016a). However, so far, the deadlock with the Railways regarding slums on their lands has largely been unresolved in Indian cities. As a result, the residents find it even more challenging to get resettlement when faced with eviction. This is the case of Sundarvan Basti in Ahmedabad which has large number of migrant construction workers.

### **Role of rental housing for migrant construction workers living off-site**

The Central government formulated a Draft National Urban Rental Housing Policy (NURHP) in 2015 with the view that promoting rental housing would be a “catalytic force to achieve the overall goal of Housing for All by 2022.” The draft NURHP specifically recognizes migrant labour’s rental housing needs in the city and outlines one of the policy objectives as promoting “Need Based Rental Housing” on short/mid/long term basis for migrant labour. The preparation of the policy is a welcome step but the policy remains in draft form. Even if the policy is finalized, it would have to be translated into a rental housing programme with clear guidelines and budgetary outlay, and the modalities of providing, managing and financing rental housing for migrant labour would need to be worked out. The draft NURHP does give some specific suggestions with regard to these modalities such as earmarking a certain percentage of dwelling units for need based rental housing in Central / State-level housing schemes; encouraging public private partnerships (PPP) and residential rental management companies (RRMCs) for the creation of social/need based rental housing; designing programmes for social/need-based rental housing using labour cess funds; and allocation of land by urban local bodies for need based rental housing. For promoting rental housing more generally, the NURHP mentions encouraging the formation of cooperative societies, municipal housing companies, neighbourhood associations, not for profit entities or other entities that would create, operate, maintain and manage rental housing stock. In the same general vein, it refers to a range of measures such as amending the Rent Control Act; implementing the Model Tenancy Act 2015 to formalize / regularize rental housing; providing fiscal and non-fiscal incentives to owners and incentives/subsidies to tenants. The relevance of these general measures to the creation and management of need based rental housing for migrant workers is not articulated in the NURHP.

Ideally, PMAY-Housing for All should have had a set of rental housing “verticals” instead of simply focusing on “verticals” that promote ownership housing. Furthermore, the draft NURHP, despite stating that States should recognize landlords, does not give any indication as to how such recognition is to be achieved and integrated into slum-related programmes like ISR under PMAY.

The PMAY (Urban) guidelines do mention that the Ministry of Labour will be requested to ask States/UTs to use cess funds in their Construction Workers Welfare Funds for creating rental housing stocks to workers, and some discussions seem to be currently taking place in this regard. Meanwhile, the SMC is preparing a proposal for rental housing for migrant construction workers which would involve a partnership between the SMC (which would provide the land), the Construction Workers’ Welfare Board (which would finance the housing), and builders (for operation and maintenance, or paying rent for their workers who would live in this rental housing). This would be a promising experiment. Land is a key resource required here and different municipal corporations have different extent of land

bank. This would partly explain the disinterest in the VMC on undertaking such a programme in Vadodara. Questions of land would need to be resolved for such cities while questions regarding the location of such rental housing, the connections between the housing and nakas / work-sites, and how the rental housing should be managed would have to be carefully considered in all the cities. Currently, SMC is thinking of reaching only those who work for long durations at construction sites, i.e. those who live on-site in the newly developing areas of Surat. There might also be a potential of expanding the reach to daily-wagers who go to the nakas. However, in this case the governance of this rental housing will have to be given significant consideration since many others, both seasonal migrants and permanent migrants, working as unorganized labour in other sectors, also require rental housing.

Rental housing is one of the potential policies / programmes of the future that could provide many migrant construction workers with better housing and basic services. It would be worthwhile for future research to explore both the supply-side and demand-side dynamics vis-à-vis rental housing for this group.

### **Role of homeless shelters for migrant construction workers living off-site**

Shelters for the homeless population were built in many Indian cities from 2011 onwards as a result of the intervention of the Supreme Court. Despite the court's guidelines that one 24-hour homeless shelter with a capacity of 100 persons be provided for every one lakh population; and that the shelters be provided with basic amenities such as mattress, bed roll, blanket, portable drinking water, functional latrines, first aid, primary health facilities, de-addiction and recreation facilities, implementation on these fronts was poor. City authorities, after considerable delays, built only night shelters instead of 24-hour shelters. Many shelters were problematic due to one or more reasons: poor location, poor basic amenities provision, poor maintainance, use by anti-social elements, denial of access to women, etc. This led to many shelters being unused. It is not clear to what extent migrant construction labour have been using the night shelters in different cities. In Ahmedabad, single male migrant construction labourers use some of the night shelters extensively. However, since these shelters have been open only in the night, this has been a major hindrance for them. They cannot store their belongings at the shelter and as daily-wage workers, they do not always get work at the naka and therefore may require shelter in the day-time as well. Many construction labour migrants from Gujarat's north-eastern tribal districts also come as families and the separation of men and women in the shelters means that they are not conducive for families. In some areas of Ahmedabad, these families live on the footpath next to the night shelter.

Recently, implementation has begun on the Scheme for Shelters for the Urban Homeless (SUH) under the National Urban Livelihoods Mission launched in 2013. The scheme's mandate is to make 24-hour shelters. It has elaborate guidelines and norms for providing and sustaining better facilities. The scheme recognizes the need for creating special shelters (or special sections within the shelters) for specific groups like single males, single women / mothers, families, extremely vulnerable groups like dependent children, aged, disabled, etc. There is a recognition that attention has to be given to location, design, services and support systems vis-à-vis most of these groups. The scheme guidelines suggest that the Urban Development Projects Formulation and Implementation (UDPFI) guidelines and Master Plans be amended to permit construction of such shelters in public and semi-public use zones, industrial and recreational areas. The shelter is also seen as a space for linkages with food, healthcare, education, etc, programmes.

While the scheme has immense potential, it remains to be seen where the shelters are located; how they are designed and managed; whether and how they become a space for ensuring access to entitlements for the urban homeless; and to what extent they are appropriate for migrant construction workers, both single males and those who migrate with families. For the schemes to reach both these groups of migrant construction workers, the local governments would have to understand and respond to their specific needs. However, our discussions with municipal officials in Surat and Vadodara revealed that not much was being done in this direction. This is because of the perceptions amongst officials about migrant construction workers and the role of homeless shelters. In Surat, officials were of the opinion that construction workers are in the newly developing areas while the homeless are in the central developed areas of the city; therefore the SMC planned to build dormitory-type shelters in the central developed areas near railway stations and bus-stands. In Vadodara, officials were of the opinion that homeless shelters are for homeless drunkards and drug addicts, often brought in by the police; that migrant workers are habituated to sleeping in the open except the monsoon; and that if shelters are open 24-hour then people would become habituated to not working. In Ahmedabad, at the time of our discussions, plans to refurbish some of the existing night shelters as per the SUH guidelines (open 24 hours, providing community kitchens, etc) were being initiated by the Urban Community Development department of the AMC, and it remains to be seen whether and how this will reach out to migrant construction workers living in the open and whether serious consideration will be given to creating family shelters that could benefit migrant families.

### **Role of the Gujarat Building and Other Construction Workers' Welfare Board vis-à-vis housing, basic services and social infrastructure for migrant construction workers living on-site and off-site**

The Gujarat Building and Other Construction Workers' Welfare Board has become active over the last couple of years. Registration of workers has arisen sharply as registration requirements have been relaxed. The current number of registered workers is 5.33 lakh out of an estimated number of 12 lakh. The Board is currently implementing over 20 welfare schemes. They fall in the categories of housing; social infrastructure for child-care and health; education assistance; health assistance; other social security schemes like life insurance and pension schemes; and skills and safety training schemes. The total amount disbursed for all the welfare schemes is Rs.64.16 crore as of May 2017, which is only 5.89 per cent of the total collected cess of Rs.1090 crore as of September 2015. Thus, while there has been progress in the last couple of years in the Board's functioning, much remains to be done in terms of registering workers, especially unskilled workers and intra-state and inter-state migrants, as well as expanding the reach of the schemes. An analysis of the implementation and even appropriateness of all the schemes is beyond the scope of this paper which has looked at only the housing and social infrastructure schemes in depth.

The housing schemes include the Shri Nanaji Deshmukh Awas Yojana, a housing subsidy scheme for ownership-based housing acquired by a construction worker under a government EWS/LIG housing programme and the Pandit Deendayal Hungami Awas Yojana, a temporary housing scheme for workers living on construction sites. The former scheme is unlikely to benefit migrant workers as they are excluded due to eligibility issues (not having the proof documents of the city required by the government housing programme) as well as affordability issues (even if they have documents of the city, those who are unskilled would not be able to afford the payment schemes of the housing programme). The temporary housing scheme would reach migrant labour but it is a very poorly designed scheme. The

units are too small, they are not designed keeping in mind usage of space (for storage, cooking etc) and there is no integration with basic services like water and sanitation. The Board is also considering developing rental housing which is a welcome step. However, the reach of the temporary housing scheme, as well as the rental housing scheme if it materializes, is restricted to construction labour working for an employer for a considerable duration and not for daily-wage workers who go to the naka and get work with different employers almost every day. This need not be the case and a temporary rental-based housing scheme could also be evolved for workers who go to the naka.

In a broader sense, the Board does not seem to have given proper thought as to what role it should best play with regard to housing, basic services and social infrastructure for construction workers. Under the BOCW Act, this provision is the employer's responsibility and can be implemented by them where workers are employed for some duration and live on construction sites in this capacity. Through its schemes for temporary housing at construction sites of public and private projects, the Board is absolving the employers of this responsibility while making no attempt to reach daily-wage workers for whom implementing this provision is difficult as they work for different employers almost every day. It would be better if the DISH inspectors enforce these provisions of the Act, and as discussed earlier, the Rules are modified to have better provisions and norms. This is not to argue that the Board should not support employers vis-à-vis improving facilities for the workers who live on their construction sites. But in that case, the interventions need to be thought through more carefully so that the Board is not using its funds to do what employers should be doing. It should also consider the smaller-scale employers and construction sites where enforcing these provisions of the BOCW Act is challenging for legitimate reasons of resources, space, etc. A rental housing scheme could be a more promising intervention in this regard, however, both demand-side and supply-side dynamics need to be understood better.

A similar point can be made with regard to the Board's scheme for crèches for construction workers' children. The scheme provides for setting up crèches along the lines of the ICDS scheme, at construction sites or construction workers' colonies where duration of construction work is expected to be at least for three years, more than 100 workers are employed, and there are more than 30 children in the 3-6 years age-group. What this means is that the Board is setting up crèches at construction sites where this responsibility is the employer's under the BOCW Act. Here too, it would be more desirable to enforce this provision through the inspectors rather than absolving the employers of their responsibility. The Board could still play a role by providing funds for adding the ICDS scheme's nutrition and primary healthcare component to the crèches set up by the employer. This more limited role would also free up the Board's resources so that this social infrastructure can be taken to children who do not get covered by the BOCW Act, that is, children at construction sites where less than 50 female workers are employed and regardless of duration of construction work. The Dhanvantri Aarogya Rath which is a mobile health van extends health facilities to migrant construction workers and their accompanying family members. This is an important scheme but its implementation would have to be looked into to understand its reach.

With regard to registration of construction workers, registration is currently viewed only as a means to extend the Board's welfare schemes to them. But in a context where migrants are non-citizens in the city because of the lack of identity and residential proofs in the city, registration could be explored as a way to provide migrant workers with a much-needed city-based identity that can play a role in expanding their entitlements as a citizen in the city and not simply as a construction worker who is a beneficiary of the Board's schemes.

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## **Annexures**

## **Annexure 1: List of government officials with whom discussions were carried out between Feb-May 2017**

### **Labour and Employment Department, Government of Gujarat:**

Office of the Labour Commissioner:

- Assistant Labour Commissioner, Surat region
- Assistant Labour Commissioner, Ahmedabad region
- Government Labour Officer, Ahmedabad region

Office of Director, Industrial Safety and Health (DISH):

- Assistant Director, Surat district
- Deputy Director, Vadodara district
- Deputy Director, Ahmedabad district<sup>67</sup>
- Industrial Safety and Health Officer, Ahmedabad district

Gujarat State Building and Other Construction Workers' Welfare Board:

- Member-Secretary
- Several State Project Coordinators (each in-charge of a cluster of schemes)
- Field Officer
- Project Manager, Surat district
- Project Manager, Vadodara district
- Project Manager, Ahmedabad district

### **Municipal Corporations:**

Surat Municipal Corporation:

- Municipal Commissioner
- Deputy Municipal Commissioner (Housing)
- Deputy Municipal Commissioner (Planning and Development)
- Executive Engineer (Slum Upgradation Cell)
- Executive Engineer (Housing)
- Additional City Engineer (Civil)
- Chief Coordinator, Swacch Bharat Mission
- City Project Officer, National Urban Livelihoods Mission (NULM), Urban Community Development (UCD) Department

Vadodara Municipal Corporation:

- Municipal Commissioner
- Deputy Municipal Commissioner (Housing)
- Former Deputy Municipal Commissioner (Housing)
- Deputy Municipal Commissioner (Health)
- Planner, Affordable Housing Cell

Ahmedabad Municipal Corporation:

- Deputy Municipal Commissioner (Housing, Estate, Urban Development)
- Additional City Engineer (Housing Project)
- Deputy City Engineer (Housing Project)
- Estate Officer
- Director, Urban Community Development (UCD) Department
- Manager, National Urban Livelihoods Mission (NULM), UCD Department

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<sup>67</sup> The Deputy Director in charge of overseeing the BOCW Act in Ahmedabad district refused to meet the author. Ahmedabad district is divided into four sectors for the purpose of implementation of labour laws overseen by the DISH and a discussion was done with another Deputy Director who implements the Act in his sector but this official was also reluctant to speak.

## Annexure 2: Labour laws and other regulations with provisions and norms vis-à-vis housing, basic services and social infrastructure for workers

Labour Laws	Provisions and norms
<p>The Contract Labour (Regulation &amp; Abolition) Act, 1970 and The Contract Labour (Regulation &amp; Abolition) (Amendment) Rules, 1971</p> <p>Sources: GoI 1970; GoI 1971</p>	<p>Provides for conditions under which contract work is permissible, registration of establishments / principal employers which seek to employ workers through a contractor, licensing of contractors employing / supplying contract labour, and regulation of the contract labour's working conditions and provision of welfare facilities for them.</p> <p>The Act applies to every establishment and every contractor that employs 20 or more workers (or that employed 20 or more workers on any day in the preceding 12 months). The Act does not apply to an establishment where work is of intermittent nature (i.e. work was performed for less than 120 days in the preceding year or, if it was seasonal work, then it was performed for less than 60 days in the preceding year). The Act also applies to establishments of the government and local authorities.</p> <p>As per the Act, the contractor is responsible for timely payment of wages and ensuring the disbursement of wages in the presence of the authorised representatives of the principal employer. The rates of wages are not to be less than the rates of minimum wages prescribed by the State Government.</p> <p>As per the Act, contractors are to provide and maintain the following <b>facilities</b> for the contract labour:</p> <ul style="list-style-type: none"> <li>• canteen (if number of contract labour is 100 or more);</li> <li>• sufficiently lighted and ventilated rest rooms for the labour to halt at night;</li> <li>• sufficient supply of wholesome drinking water for the contract labour at convenient places;</li> <li>• sufficient number of latrines and urinals so as to be convenient and accessible to the contract labour;</li> <li>• washing facilities and first-aid facilities.</li> </ul> <p>If the contractor does not provide these facilities in the prescribed time then the establishment / principal employer must do so.</p> <p>The Rules have the following detailed provisions for the <b>facilities</b>:</p> <ul style="list-style-type: none"> <li>• Rest-rooms are to be provided where employment of contract labour is likely to be for 3 months or more; separate rooms are to be provided for women migrant workers; and room size should be based on the norm of 1.1 sq.m per person. These rooms to have adequate ventilation and lighting, “afford adequate protection against heat, wind, rain” and “have smooth, hard and impervious floor surface.”</li> <li>• Canteen of certain standards is to be provided if the work is likely to continue for 6 months or more.</li> <li>• Latrines and urinals are to be provided as per norms of 1 latrine for every 25 women and 1 latrine for every 25 men (norms change if there are more than 100 female/male workers), 1 urinal for every 50 women, and 1 urinal for every 50 men (norms change if there are more than 500 female/male workers). These are to be “conveniently situated and accessible to workers at all times,” “adequately lighted” and maintained.</li> <li>• Separate washing facilities for men and women to be provided and maintained.</li> </ul>

<p>The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Central Rules, 1980</p> <p>Sources: GoI 1979; GoI 1980</p>	<p>Provides for registration of establishments / principal employers which seek to employ inter-state migrant workers through a contractor, licensing of contractors supplying inter-state migrant labour (who are recruited in one State for employment in another State), and regulation of the workers' conditions of recruitment, transportation and work, and provision of basic facilities for them.</p> <p>The Act applies to every establishment and every contractor that employs five or more inter-state migrant workers (or employed five or more inter-state migrant workers on any day in the preceding 12 months). The Act also applies to establishments of the government and local authorities. The contractor has to obtain a recruitment licence from the home State of the labourer and an employment licence from the State where they are to be employed.</p> <p>The contractor is responsible for issuing a passbooks to the inter-state migrant workers, providing them displacement allowance and journey allowance, paying timely wages equal to or higher than the minimum wage, ensuring equality of wages between migrant labourers and others (irrespective of sex), providing protective clothing and prescribed medical facilities free of charge, intimating the specified authorities of both the home State and the destination State and also next-of-kin of the workers in case of accidents and casualties to workers, etc.</p> <p>Contractors are to provide and maintain suitable <b>residential accommodation</b> for inter-state migrant workers during their period of employment.</p> <p>The Rules have the following detailed provisions for <b>facilities</b> for inter-state migrant workers:</p> <ul style="list-style-type: none"> <li>• Provision of sufficient quantity of wholesome drinking water</li> <li>• Canteen of certain standards to be provided if the work is likely to continue for 6 months or more.</li> <li>• Latrines and urinals are to be provided as per norms of 1 latrine for every 25 women and 1 latrine for every 25 men (norms change if there are more than 190 female/male workers), 1 urinal for every 50 women, and 1 urinal for every 50 men (norms change if there are more than 500 female/male workers). These are to be “conveniently situated and accessible to workers at all times,” “adequately lighted” and maintained.</li> <li>• Separate washing facilities for men &amp; women to be provided and maintained in all establishments employing migrant workers.</li> <li>• Two-room creche to be provided for children of migrant labourers where employment is likely to be for 3 months or more and where more than 20 or more workers are ordinarily employed. Creche to have adequate supply of wholesome drinking water; afford adequate protection against heat, damp, wind, rain; and have smooth, hard and impervious floor surface.</li> <li>• Residential accommodation of minimum 10 sq.m. room, verandah and covered space for cooking to be provided to every migrant worker accompanied by any other member of his family. There should be one common sanitary latrine and bathroom for every three such quarters. If migrant worker is not accompanied by family, then residential barrack should be for not more than 10 workers, with minimum 6.5 sq.m. area per worker. There should be one common sanitary latrine and one common bathroom for 10 such workers. These rooms to have adequate ventilation and lighting; afford adequate protection against heat, wind, rain; have smooth, hard and impervious floor surface; and have adequate supply of wholesome drinking water.</li> </ul> <p>If these facilities are not provided by the contractor within the specified period, then the establishment / principal employer is required to provide them.</p>
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<p>The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Central Rules, 1998</p> <p>Sources: GoI 1996; GoI 1998</p>	<p>Empowers State government to formulate Rules under the Act. Provides for appointment of a Chief Inspector for Inspection of Building and Construction. Provides for constituting a State-level Building and Other Construction Workers' Welfare Board and lists functions that it may undertake; provides for setting up a State Advisory Committee to advise the State government on matters arising out of the administration of the Act. Provides for setting up a Building and Other Construction Workers' Welfare Fund under the Board which would fund welfare schemes for construction workers.</p> <p>Provides for registration of construction workers with the Board. A worker who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months is to be eligible for registration with the Board.</p> <p>The Act 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. An establishment is defined by the Act as “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.” Provides for the registration of these establishments. An employer is defined by the Act as “an owner of an establishment undertaking construction work without a contractor or by/through a contractor or with labour supplied by a contractor.”</p> <p>The employer is responsible for ensuring minimum conditions of work at construction sites – this includes a range of provisions and requirements related to wages, working hours, maintenance of registers and records by the employer giving particulars of their workers and their work, safety in work conditions, etc.</p> <p>Employers are to provide the following <b>facilities</b> at construction sites:</p> <ul style="list-style-type: none"> <li>• Drinking water to be provided on construction sites and should not be located within 6 metres of any toilet or washing place. (section 32)</li> <li>• Sufficient toilet facilities (latrines and urinals) to be provided on site. (section 33)</li> <li>• Free temporary accommodation to be provided on or near the site to all workers employed for the period of construction work. This accommodation to have separate cooking place, bathing, washing and lavatory facilities (section 34)</li> <li>• Crèches with trained childcare help to be provided for children under the age of six years where more than 50 female workers are employed. (section 35)</li> <li>• First-aid facilities to be provided at the site. (section 36)</li> <li>• Canteen to be provided at sites that ordinarily employ more than 250 workers. (section 37)</li> </ul>
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<p>The Building and Other Construction Workers' Welfare Cess Act, 1996. The Building and Other Construction Workers' Welfare Cess Central Rules, 1998.</p> <p>Source: GoI 1996; GoI 1998</p>	<p>Provides for payment of cess by builders into a welfare fund, registration of construction workers with the Board, and welfare of benefits to registered construction workers.</p>
<p>The Gujarat Building and Other Construction Workers (Regulation of Employment and Condition of Services) Rules, 2003.</p> <p>Source: GoG 2003</p>	<p>Requires that the Gujarat Building and Other Construction Workers Welfare Board be constituted – this includes five members representing the building and construction workers who shall be from union of such workers and from among NGOs working in the interest of such workers and a representative of women workers. Welfare Commissioner is to be a member of the Board. The Board is to extend “assistance in certain cases” – this mentions “loans and advances for construction of a house, for education of children, for meeting medical expenses of treatment of major ailments of beneficiary or his dependent or for such other welfare measures and facilities as may be determined by the Board by resolution, with due regard to the availability of funds with the Board.”</p> <p>Provides for registration of establishments and registration of construction workers</p> <p>The employer is responsible for ensuring minimum conditions of work at construction sites – this includes a range of provisions and requirements related to wages, maximum working hours, overtime, maintenance of registers and records by the employer giving particulars of their workers and their work, issuing wage books to the workers where the wage period is one week or more, safety in work conditions, etc.</p> <p>Employers to provide the following <b>facilities</b> at construction worksites:</p> <ul style="list-style-type: none"> <li>• Latrines and urinals (separate for men and women) at convenient and accessible locations on site with water and disposal facility, adequate lighting and maintenance. (section 59)</li> <li>• Canteen at sites with more than 200 workers, following the rules regarding its design and functioning (section 60)</li> </ul> <p>Every establishment employing 50 or more building workers to prepare and submit a health and safety policy for workers for the chief inspector's approval. Medical examinations to be held at intervals for workers engaged in work involving risk or hazards. An occupational health centre, mobile or static, to be provided at construction sites involving hazardous processes. Occupational health service or special medical service for workers to be provided at all times if the site employs more than 500 workers.</p>

Other regulations	Provisions and norms
<p data-bbox="203 280 595 363">Central Public Works Department's "General Conditions of Contract" 2014.</p> <p data-bbox="203 464 360 520">Source: CPWD (2014)</p>	<p data-bbox="618 280 2007 331">Contractor to provide a sufficient number of huts (hereinafter referred to as the camp) of the following specifications on a suitable plot of land:</p> <ul data-bbox="618 339 2031 1319" style="list-style-type: none"> <li data-bbox="618 339 2031 391">• The minimum height of each hut at the eaves level to be 2.10m. (7 ft.) and the floor area to be provided at the rate of 2.7 sq.m. (30 sq.ft.) for each member of the worker's family staying with the worker.</li> <li data-bbox="618 399 2031 450">• Suitable cooking places to be constructed having a minimum area of 1.80m x 1.50m (6 ft. x 5 ft.) adjacent to the hut for each family.</li> <li data-bbox="618 458 2031 509">• Temporary latrines and urinals to be constructed for the use of the labourers. These are to be not less than four per 100 persons, with separate latrines and urinals provided for women.</li> <li data-bbox="618 517 2031 568">• Sufficient number of bathing and washing places to be constructed. One unit is to be provided for every 25 persons residing in the camp. These bathing and washing places to be suitably screened.</li> <li data-bbox="618 576 2031 730">• All the huts to have walls of sun-dried or burnt-bricks laid in mud mortar or other suitable local materials as may be approved by the Engineer-in-Charge. In case of sun-dried bricks, the walls to be plastered with mud gobi on both sides. The floor may be kutcha but plastered with mud gobi and to be at least 15 cm (6") above the surrounding ground. The roofs to be laid with thatch or any other materials as may be approved by the Engineer-in-Charge and the contractor to ensure that throughout the period of their occupation, the roofs remain water-tight.</li> <li data-bbox="618 738 1037 764">• Each hut to have proper ventilation.</li> <li data-bbox="618 772 1767 798">• All doors, windows, and ventilators of the huts to be provided with suitable leaves for security purposes.</li> <li data-bbox="618 805 2031 857">• Open space of at least 7.2m (8 yards) to be kept between the rows of huts which may be reduced to 6m (20 ft.) according to the availability of site with the approval of the Engineer-in-Charge. Back to back construction is allowed.</li> <li data-bbox="618 865 2031 1019">• Water Supply - The contractor to provide adequate supply of water for the use of labourers. The provisions to not be less than two gallons of pure and wholesome water per head per day for drinking purposes and three gallons of clean water per head per day for bathing and washing purposes. Where piped water supply is available, supply to be at standposts and where the supply is from wells or river, tanks which may be of metal or masonry, are to be provided. The contractor to make arrangements for laying pipelines for water supply to the labour camp from the existing mains wherever available.</li> <li data-bbox="618 1027 2031 1166">• Disposal of Excreta - The contractor to make necessary arrangements for the disposal of excreta from the latrines by trenching or incineration which is to be according to the requirements laid down by the local health authorities. If trenching or incineration is not allowed, the contractor to make arrangements for the removal of the excreta through the municipal authority. All costs shall be borne by the contractor and paid direct by him to the authority. The contractor to provide one sweeper for every eight seats in case of dry system.</li> <li data-bbox="618 1174 2031 1225">• Drainage - The contractor to provide efficient arrangements for draining away sullage water so as to keep the labour camp neat and tidy.</li> <li data-bbox="618 1233 2031 1259">• The contractor to make necessary arrangements for keeping the camp area sufficiently lighted to avoid accidents to the workers</li> <li data-bbox="618 1267 2031 1318">• Sanitation - The contractor to make arrangements for conservancy and sanitation in the labour camps according to the rules of the local public health and medical authorities.</li> </ul>

### **Annexure 3: ILO norms for welfare provisions at construction sites**

(Source: ILO 1992: Chapter 19)

#### 19.1. General provisions

19.1.1. At or within reasonable access of every construction site an adequate supply of wholesome drinking water should be provided.

19.1.2. At or within reasonable access of every construction site, the following facilities should, depending on the number of workers and the duration of the work, be provided, kept clean and maintained:

(a) sanitary and washing facilities or showers;

(b) facilities for changing and for the storage and drying of clothing;

(c) accommodation for taking meals and for taking shelter during interruption of work due to adverse weather conditions.

19.1.3. Men and women workers should be provided with separate sanitary and washing facilities.

#### 19.2. Drinking water

19.2.1. All drinking water should be from a source approved by the competent authority.

19.2.2. Where such water is not available, the competent authority should ensure that the necessary steps are taken to make any water to be used for drinking fit for human consumption.

19.2.3. Drinking water for common use should only be stored in closed containers from which the water should be dispensed through taps or cocks.

19.2.4. If drinking water has to be transported to the worksite, the transport arrangements should be approved by the competent authority.

19.2.5. The transport tanks, storage tanks and dispensing container should be designed, used, cleaned and disinfected at suitable intervals in a manner approved by the competent authority.

19.2.6. Water that is unfit to drink should be conspicuously indicated by notices prohibiting workers from drinking it.

19.2.7. A supply of drinking water should never be connected to a supply of water that is unfit to drink.

#### 19.3. Sanitary facilities

19.3.1. The scale of provision of toilet or sanitary facilities, and the construction and installation of water flush toilets, privies, chemical closets, plumbing or other toilet fixtures should comply with the requirements of the competent authority.

19.3.2. No toilet other than a water flush toilet should be installed in any building containing sleeping, eating or other living accommodation and should be adequately ventilated and not open directly into occupied rooms.

19.3.3. Adequate washing facilities should be provided as near as practicable to toilet facilities.

#### 19.4. Washing facilities

19.4.1. The number and standard of construction and maintenance of washing facilities should comply with the requirements of the competent authority.

19.4.2. Washing facilities should not be used for any other purpose.

19.4.3. Where workers are exposed to skin contamination by poisonous, infectious or irritating substances, or oil, grease or dust, there should be a sufficient number of appropriate washing facilities or shower-baths supplied with hot and cold

water.

#### 19.5. Cloakrooms

19.5.1. Cloakrooms should be provided for workers at easily accessible places and not be used for any other purpose.

19.5.2. Cloakrooms should be provided with suitable facilities for drying wet clothes and for hanging clothing including, where necessary to avoid contamination, suitable lockers separating working from street clothes.

19.5.3. Suitable arrangements should be made for disinfecting cloakrooms and lockers in conformity with the requirements of the competent authority.

#### 19.6. Facilities for food and drink

19.6.1. In appropriate cases, depending on the number of workers, the duration of the work and its location, adequate facilities for obtaining or preparing food and drink at or near a construction site should be provided, if not otherwise available.

#### 19.7. Shelters

19.7.1. Shelters should, as far as practicable, provide facilities for washing, taking meals and for drying and storing clothing, unless such facilities are available in the vicinity.

#### 19.8. Living accommodation

19.8.1. Suitable living accommodation should be made available for the workers at construction sites which are remote from their homes, where adequate transportation between the site and their homes or other suitable living accommodation is not available. Men and women workers should be provided with separate sanitary, washing and sleeping facilities.

#### Annexure 4: Status of Welfare Schemes Implemented by the Gujarat Building and Other Construction Workers' Welfare Board

Scheme	Benefits	Number of beneficiaries	Amount disbursed (in lakhs)
	Source: <a href="https://bocwwb.gujarat.gov.in/schemes.htm">https://bocwwb.gujarat.gov.in/schemes.htm</a> (accessed on 10.1.2017) and Board's Brochure of Schemes	Source: Data from State-level office of the Board by email on May 11, 2017	
<b>Housing</b>			
Shri Nanaji Deshmukh Awas Yojana	Provides financial aid to construction workers who have been allotted a house in a government EWS/LIG housing scheme. The aid amount is Rs.1,60,000 to male construction workers and Rs.1,70,000 to female construction workers.	47	75.40
Pandit Deendayal Hungami Awas Yojana	Provides temporary housing to construction workers. This includes units built out of prefabricated RCC slabs as well as tarpolin tents.	2950 (As of May 2017: approx. 700 RCC units built. As of March 2017, this included nine public construction sites and three private sites in Ahmedabad)	282.00
<b>Social Infrastructure (Child-Care and Health)</b>			
Anganwadi / Balwadi scheme	Provides for the setting up of anganwadi / balwadi in municipal corporation areas at construction sites or construction workers' colonies where duration of construction work is expected to be at least for three years, more than 100 workers are employed and there are more than 30 children in the 3-6 years age-group. Scheme is to be implemented along the lines of the Integrated Child Development Services (ICDS) scheme. Currently, the Board has allotted Rs.10 crore for this scheme of which Rs.1.2 crore has been approved so far for 100 anganwadis.	2152 children covered (As of March 2017: 40 anganwadis operating)	64.71
Dhanvantri Aarogya Rath	Mobile health vans providing free medical support	2,77,167	485.00
Health screening camp for female workers		971	17.00

Scheme	Benefits	Number of Beneficiaries	Amount disbursed (in lakhs)
<b>Education Assistance Schemes</b>			
Education Assistance Scheme	Financial aid for education to children of construction workers (upto two children) and his wife (provided she is below 30 years age). Aid amount is in the range of Rs.500-25,000.	46,354	1532.00
Assistance for construction workers' children for coaching in special subjects		12,709	910.00
Assistance for construction workers' children living in hostels for schooling	Monthly financial aid of Rs.1500 (for 10 months) for children of construction workers studying in 5 <sup>th</sup> to 9 <sup>th</sup> Standard and aid of Rs.2000 (for 10 months) for children studying in 10 <sup>th</sup> and above, who are living in a hostel for their schooling.	301	20.25
Bhagyalaxmi Bond Scheme	Financial aid for meeting daughter's education and marriage costs in the form of a bond for 18 years that the worker can buy for Rs.10,000. At the end of the 18-year period, the worker can withdraw the accumulated amount.		
<b>Health Assistance Schemes</b>			
Rashtriya Swasthya Bima Yojana (RSBY)	Central government sponsored health insurance scheme for poor families. At a nominal registration fee, the scheme provides for an yearly coverage for in-patient care at a RSBY empanelled hospital of up to Rs. 30,000 to five members of a family.	681	8.92
MAA Amrutam and Maa Vatsalya Yojna	Gujarat government scheme for medical treatment at empanelled hospitals to Below Poverty Line (BPL) families and families having annual income of Rs.1.20 lakh or below in case of illnesses related to cardiovascular diseases, renal diseases, neurological diseases, burns, cancer, and neo-natal diseases. An yearly sum of Rs. 2 lakh is assured to each family.	250	1000.00
Maternity Aid	Provides aid of Rs.7500 per child to pregnant construction workers (up to two pregnancies)	180	7.55
Medical Aid	Provides aid of 75% of the total expense incurred (upto max. Rs 1 lakh) for treating serious illness suffered by a construction worker or his/her family member.	29	10.46
Assistance for occupation related illnesses	Provides aid of up to Rs.3 lakh to construction worker for treatment of 23 types of occupation-related illnesses and monthly financial support during treatment.	333	743.00
Funeral Assistance		130	4.97

<b>Scheme</b>	<b>Benefits</b>	<b>Number of Beneficiaries</b>	<b>Amount disbursed (in lakhs)</b>
Assistance in case of accidental death or permanent disability	Provides compensation of Rs.3 lakh in case of death and Rs.1 lakh in case of disability caused by accident at the work-site.	14	31.66
Antyesthi Aid Scheme	Provides aid of Rs.5000 to the legal heir of a construction worker in event of his/her natural death before the age of 70 years.		
<b>Health and Education Assistance Schemes</b>			
Aam Aadmi Bima Yojana	Provides compensation of Rs.30,000 in case of natural death, Rs.75,000 in case of accident-related death at work-site, Rs.75,000 in case of permanent disability caused by accident, Rs.37,500 in case of temporary disability. Also provides scholarship of Rs.100 per month for education of construction workers' children (up to two children) studying in 9-12 <sup>th</sup> Std.		
<b>Other Social Security Schemes</b>			
Pradhanmantri Jeevan Jyoti Bima Yojana	Central government life insurance scheme in which a worker (below age of 50 years) has to pay an annual premium of Rs.330 to avail of Rs.2 lakh life insurance. Workers registered with the Board would have to pay half this amount while the Board would cover the remaining half.		
Atal Pension Yojana	Central government pension scheme for workers aged 18-40 years, in which a worker has to contribute a monthly amount of Rs.42-1454 (depending on his/her age) against which at the age of 60 years he/she gets a minimum of Rs.1000 and a maximum of Rs.5000 as monthly pension. Workers registered with the Board would get annual assistance of Rs.500 towards paying their contribution.	55	0.27
<b>Skills and Safety Training Schemes</b>			
Safety Training Scheme		6000	273.00
Training under Swachh Bharat Mission toilet building		527	48.24
Kaushalya Vardhana / Vishwakarma Sadhan Sahaay Yojna	Higher skill training for workers engaged in plumbing, masonry, painting, welding, carpentry and other listed professions. During training they receive Rs.300 daily & one meal; after training aid of up to Rs 6,000 for purchase of tools.	5825	902.17
<b>Total</b>			<b>6416.60</b>

## **Annexure 5: NULM and SUH governance and funding**

(Source: MHUPA n.d; MHUPA 2013)

Mission and scheme governance:

- National Mission Management Unit (NMMU)
- State Mission Management Unit (SMMU) – comprises of a Governing Council (GC) and an Executive Committee (EC). Would prepare a Perspective Plan (i.e. State Urban Poverty Reduction Strategy) and the EC to appraise and sanction shelter projects.
- City Mission Management Unit (CMMU) – the Executive Committee (CMMU-EC) comprises the Municipal Commissioner as Chairperson, several other members (from various government departments and civil society), and the City Project Officer (CPO) for NULM. Would prepare a City Livelihood Development Plan. The CMMU to be managed by the CPO who will be of the rank of a Deputy Municipal Commissioner/Executive Officer and will be assisted by one or more Assistant Project Officers (APOs) and a team of functional specialists in the fields of social mobilisation, institution and capacity building, micro finance, livelihoods/ micro enterprises. The CMMU will be linked to the community structures in the cities through Community Organisers (COs), each CO covering at least 3,000 urban poor families. The CMMU-EC will be responsible for the planning, implementation and management of facilities created under SUH with the participation of municipal authorities, community representatives, civil society organisations, line departments and elected representatives. This includes preparing a DPR for each proposed shelter project.
- Technical Advisory Groups (TAGs) at the national, state, and city levels
- Partnerships with the private sector for the operation of the shelters.<sup>68</sup>

Shelter governance:

- A Shelter Management Committee (SMC), comprising preferably of caretakers and persons nominated from amongst residents of the shelter, to be responsible for daily management, upkeep, cleanliness and discipline at the shelter.
- Each shelter to have full time staff / team comprising a field officer (coordinator, overseeing smooth functioning, Government interface), a home manager (kitchen management, record maintenance, dispute resolution etc.), a resident shelter caretaker, and a watchperson.
- The Community Kitchens may be run by the State agencies or any private agencies. Residents to offer voluntary services to maintain the shelter.

Funding:

Funding is to be shared between the Centre and the States in the ratio of 75:25 (except for North-East and Special Category States). Land for the shelters is to be given by the State Government. The land cost cannot be included for the fund sharing between Centre and State. The same fund-sharing ratio would apply for operation and maintenance (O&M) of the shelters but only for a period of five years. For O&M of one shelter catering to 50 urban homeless, an amount of Rs. 6,00,000 per annum is provisioned.

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<sup>68</sup> MHUPA (2013) states which agencies can be involved in the O&M of shelters, and mentions that they may also be involved in project formulation.

Centre for Urban Equity (CUE) advocates a human-centered and equitable urban development paradigm. The activities of CUE are research, policy advocacy, training and capacity building and data documentation and dissemination. The centre is a National Resource Centre of Ministry of Housing and Urban Poverty Alleviation,



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