

Facts & Figures

Both Source and Destination States need to work towards securing the rights of migrant workers in the brick kilns

Ground Report: Improving Access to Rights & Entitlements

Ask the Experts: Interview with Mr. J John on the Minimum Wage Struggle in the Brick Industry



December, 2022

Issue
THREE

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Facts and Figures...

In India, approximately 93% of workers are in the unorganized sector, suffering cycles of excessive seasonality of employment, lack of formal employer-employee relationship and absence of social security protection.

<https://labour.gov.in/sites/default/files/Chapter%20-%20208.pdf>

There are 4,14,22,917 seasonal migrant labourers in India, of whom 15.5% are women (Census 2011).

<https://labour.gov.in/sites/default/files/PIB1814543.pdf>

In the unorganised sector, 78% women are engaged in non-agricultural activities. Most of the women work as casual labourers. 15.7 per cent rural and 13.6 per cent urban women workers have no fixed workplace.

https://wcd.nic.in/sites/default/files/FINAL%20DRAFT%20REPORT_0.pdf

Among brick kiln workers, 95% of whom are rural, half (48.7%) of all migrant workers are from the SC category and 16.1% from the ST category. Even of the remaining 35.2%, an overwhelming part, 30.1%, are OBC.

<https://mohua.gov.in/upload/uploadfiles/files/1566.pdf>

From the Editor's Desk...

The third in the series, this newsletter focuses on issues concerning wages and social security for seasonal migrant workers in the brick kilns, especially women brick workers and their children.

While much has been written about the brick industry and brick kiln workers, health, nutrition, food security and dignity for the families of brick workers, particularly women and children at the kilns, requires considered attention. Are the current social security measures available for brick workers sufficient to address the needs of their families? What should be the theory of change if the industry and its workers are to contribute to the growth of the national economy? These are questions that India must engage with, more so in the light of India's commitment to SDGs ..

The newsletter is part of an initiative being carried out in 30 brick kilns of Ajmer, Bhilwara (Rajasthan) and Surir (Mathura, Uttar Pradesh), with support from the German Federal Ministry for Economic Cooperation and Development (BMZ) and terre des hommes (Germany). It is being implemented by the Centre for Labour Research and Action (CLRA) in Rajasthan and the Centre for Education and Communication (CEC) in Mathura, Uttar Pradesh. HAQ is providing technical inputs for evidence creation and informed discourse on the subject.

Bharti Ali



Both Source and Destination States need to work towards securing the rights of migrant workers in the brick kilns

'Do you want to part with your leg or hand?'



Re: Chopping of the Palms of two migrants

A suo moto writ petition W.P. (C) No. 30 of 2014 arose in the Supreme Court of India from the incident of chopping of palms of two migrant workers from Odisha, reported in "The Hindu", dated 03.01.2014. At the same time W.P.(C) No. 55 of 2014 raising a similar issue and seeking redress against exploitation of migrant workers from the State of Odisha was filed in the Supreme Court by Shri Radhey Shyam Jena and both the matters were clubbed.

With the intervention of the Supreme Court, the migrant workers were sanctioned monetary relief and compensation, a disability pension of Rs. 300/- p.m., a homestead land and a house under the Odisha government's Mo Kudia Yojana, prosthetic limbs from Christian Medical College, Vellore and a MNREGS job card (for one of them).

Certain measures had to be taken by the State Government of Odisha (source state) and the erstwhile State Government of Andhra Pradesh (destination state), which included:

- Awareness camps from September 2013 to December 2013 at village/gram panchayat level in the migration prone Bolangir district, including distribution of posters, booklets and leaflets focussing on safe migration and rights of migrant workmen who go to Andhra Pradesh and other States for work, particularly in the brick kilns.
- A Memorandum of Understanding (MoU) between the Government of Odisha and the Government of Andhra Pradesh to develop a coordination mechanism between the receiving and the sending States.
- An action plan prepared by both States for protecting the rights of migrant workers, especially those in the brick kilns.
- Certain other steps for the benefit of the people from migration prone districts of Bolangir and Nuapada.

An application for intervention was filed by the Int Bhatta Mazdoor Union highlighting unsatisfactory conditions and violation of safeguards of statutory provisions in the State of Odisha as well as the then State of Andhra Pradesh. Both the States were directed to file their affidavits in response to the intervention application. Subsequently, the State Legal Services Authority in the States of Odisha and Telangana prepared reports relating to the working conditions of migrant workers in brick kilns. Upon perusal of the reports, on 06.11.2015, the Supreme Court requested the Hon'ble Chief Justices of the High Courts of Odisha and Telangana to register a public interest litigation and deal with the reports and their implementation.

Re: Chopping of the Palms of two migrants vs. The State of Telangana [W.P (PIL) No. 358 of 2015] thus resulted in the High Court of Telangana.

On 21.12.2015, the High Court of Telangana sought response from the concerned authorities on the following issues:

1. Whether the workers are paid minimum wages and how?
2. Whether it is possible to deposit their wages in bank accounts to be opened by owners of Brick Kilns?
3. Whether owners of brick kilns make any arrangement of stay of the workers/migrant workers?
4. Whether medical facilities are being provided to the workers and their children etc.?

In response, a survey report of migrant workers in the brick kilns was submitted to the Court. The survey was carried out between December 2014 and February 2015, containing details of brick kilns, their owners and migrant workers.

On 25.01.2016, the Assistant Labour Commissioner submitted to the Court that show cause notices had been issued to the brick kiln owners who had not complied with the statutory requirements and some officers of the Labour Department had been assigned the task of ensuring that the workers have their bank accounts and their wages are directly deposited into their accounts. The Court directed the Assistant Commissioner of Labour to see that all owners pay minimum wages to the workers in the brick kilns.

On 06.04.2016, the State Bank of India informed the Court that a circular was issued to all its branches laying down operating instructions for opening of small accounts by migrant workers.

Accepting the suggestions put forth by the Member Secretary, Telangana State Legal Services Authority, the Court directed the Member Secretary "to coordinate with different Government agencies to ensure that the working conditions of migrant workers in the brick kilns are in accordance with the statutory requirements and to eliminate any kind of exploitation."

Re: Chopping of the Palms of two migrants vs. The State of Telangana [W.P (PIL) No. 358 of 2015]: Suggestions accepted by Telangana High Court	Responsible Authority
Importance of Data and Its Management	
To conduct periodical intensive survey every year disclosing all the details of Brick Kilns, their owners, migrant workers and to share the data with all the line departments of both the States.	District Administration of the destination district
Dealing with Violation of Statutory Provisions by Brick Kiln Owners	
To inspect the brick kilns periodically to see that there are no statutory violations and interact with the workers, NGOs, trade unions operating in that area. It must be ensured that the payment of the wages to the workers must be made either in the presence of Labour Officer or through the Bank Account to avoid any mischief or fraud.	Concerned Labour Officers
Though there is MoU dt. 08.06.2012 between Odisha and erstwhile composite state of Andhra Pradesh it is necessary to make it more effective at the ground level. The local police of RR District wherein the brick kilns are concentrated should be made aware of their responsibility in protecting the Human Rights of Migrant Workers ensuring the implementation of relevant statutory provisions and labour laws. The coordination between the police, Revenue and Labour department has to be improved making it easy for the Authorities to book the unlicensed contractors, Brick Kilns owners for statutory violations and also to act deterrently. Ensure proper coordination between the officials of the source state (Odisha) and the destination state (Telangana) for proper implementation of all the statutory measures.	No particular authority identified, though a general direction is passed for the Member Secretary of Telangana State Legal Services Authority to coordinate with different Government agencies.
Welfare and Safety of Workers	
To ensure social protection to migrant brick kiln workers by extension of all government welfare schemes including Building and other Construction Workers Act. Rice and ration at subsidized rates under PDS system through coupons must be supplied. Immediate steps be taken to provide purified drinking water facility as the migrant workers are living under unhygienic conditions.	District Administration of the destination district
To ensure the visit of health visitors and ANMs to the brick kilns and simultaneously also ensure the visit of 104 and 108 services to the brick kilns as and when required.	District and Medical Health Officer
To provide proper housing accommodation with proper ventilation and electricity and provision of sintex tanks for safe drinking water. To construct separate toilets and bathing facilities to the male and female workers.	Brick Kiln Owners
Rights of Children of Brick Kiln Workers	
To inspect all the brick kilns during the working season and ensure that the services of Aanganwadis are provided and that the children are able to attend the schools in accordance with the Right to Education Act and they are provided with nutritious food. Steps be taken to ensure that no child labourer is employed in the brick kilns and ensure admission of the children in the work site schools.	Concerned State officials of the ICDS, Rajiv Vidya Mission and such other schemes
To provide free mid-day meal to the pregnant women and lactating mothers and supply of supplements to the children.	District Administration of the destination district

Awareness and Access to Services for Brick Kiln Workers

<p>To spread awareness among the migrant workers and brick kiln owners about the existing labour laws, welfare schemes with the help of pamphlets, posters, brochures and through Print and Electronic Media.</p>	<p>District Legal Services Authorities, Mandal Legal Services Committees in coordination with the law students, Para Legal Volunteers, Village Legal Aid Clinics of the concerned villages</p>
<p>To provide Toll free helpline numbers of both the States integrating all the line departments like Medical, Health, Labour, Education, Rural Water Supply, ICDS and the District Supply Officer, Police making them to respond to the call made by any worker.</p>	<p>No particular authority identified, though a general direction is passed for the Member Secretary of Telangana State Legal Services Authority to coordinate with different Government agencies.</p>

Actions to be taken by concerned authorities in the source state

<p>The migrant workers must be convinced to declare all necessary particulars before the authorities of the source State before migrating to work in other states, it will have a check over the activities of illegal contractors and their agents and will also be helpful to the officials to track any worker in case of any mishap or difficulty faced by them.</p>	<p>No particular authority identified</p>
<p>Most of the migrant workers represented that due to lack of employment, lack of irrigation facilities at their place, they are made to migrate to work in the brick kilns in Telangana State. Therefore, it is essential for the source State to implement various Welfare Schemes and NREG programs effectively at the ground level to serve the real purpose.</p>	
<p>It is also essential to strengthen the self-help groups in the villages by financing from the Public Institutions. Nationalized Banks shall be made to finance these brick kiln workers / landless poor persons by offering credit to them, thereby the traditional unlicensed money lenders thriving to continue to exploit the poor villagers can be prevented.</p>	



GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT
RAJYA SABHA
UNSTARRED QUESTION NO. 84
TO BE ANSWERED ON 02.02.2023
BRICK KILN EXPLOSIONS

84. PROF. MANOJKUMARJHA:

Will the Minister of Labour and Employment be pleased to state:

- (a) the number of workers who have died due to brick kiln explosion/accidents during the last three years, the details thereof, State-wise;
- (b) the State that recorded the maximum number of brick-kiln accidents during the last three years;
- (c) the details of action taken in such accidents during the last three years;
- (d) the number of workers employed in brick industry in the country, the details thereof, State-wise; and
- (e) the number of workers employed in illegal brick-kilns in the country, the details thereof, State-wise?

ANSWER

(a) to (e): The Factories Act, 1948 provides for occupational safety, health and welfare of workers working in the factory registered under the Act. The Brick kiln which meets the criteria stipulated under section 2(m) of the Factories Act, 1948 is registered as a factory and the provisions of the Act 1948 applies thereto. The Act and rules made thereunder are enforced by state Governments through Chief Inspector of Factories (CIF) and Director Industrial Safety & Health (DISH). State Governments take action against the occupier and manager of the factory for violation of provisions of the Act and Rules made thereunder.

Year	Details of fatal injuries in registered factories including brick kilns	Details of non-Fatal injuries in registered factories including brick kilns	No. of Prosecutions			No. of Convictions	Penalty Imposed		Details of Employment in registered factories
			Pending from previous year	Launched during the year	Decided during the year		Imprisonment	Total fine imposed	
2019	1127	3927	50999	13354	8325	7147	4	96450279	18552909
2020	1050	2832	54104	7490	3047	2563	10	32662001	20298387
2021	988	2803	47984	9068	6449	5012	8	50507893	17400620

Note: Data is not reported by CIF/NIL for many States/UT for different years. Sikkim and Lakshadweep are reported to have no registered factories.

Source: <https://pqars.nic.in/annex/259/AU84.pdf>

Brickworkers unable to avail benefits of the Building and Other Construction Workers Welfare Cess Act, 1996

Under this law, 1% of the cost of construction incurred is to be collected from the employers as a cess and pooled into a fund managed at the state level by the Building and Construction Worker Welfare Boards (BOCWWBs). This fund is to be used for providing social security and related services to construction workers, including brick kiln workers and their families. The social security benefits involve medical assistance and accident cover, pension, maternity benefits, educational assistance for children of workers, assistance to family members in case of death (by accident, at worksite or even in case of natural death), funeral assistance, and in some states, marriage assistance for children of workers. However, the 44th Report of the Parliamentary Standing Committee on Labour (March 2014) points to poor implementation of the Act due to delay in setting up functional Construction Workers' Welfare Boards in all the states, non-registration of brick-kiln workers and migrant labourers, and lack of clarity on the manner in which the cess funds are to be spent. According to the 2017 Report of the Working Group on Migration, between 2013 and 2015, only 15% to 21% cess funds collected were utilised by states and there were significant inter-state variations.

As on 1 November 2022, cumulative cess collected by the state BOCWWBs was ₹ 87478.79 crore while cumulative spending was ₹ 49269.20 crore and ₹ 38209.59 crore was left unspent.

- Rajya Sabha Unstarred Question No. 1042, answered on 15.12.2022
 Url:
<https://pqars.nic.in/annex/258/AU1042.pdf>

Marginalised Women with Young Children Need Crèches to Join Paid Work

A study conducted by Mobile Creches unravels how availability of childcare services enables paid work participation and improves economic conditions for women. It also establishes that childcare responsibilities within families restrain women from joining paid work.

Key Highlights:

1. A total of 1128 women with children under six years of age were interviewed from both rural and urban settings in Gujarat, Jharkhand, Karnataka and Odisha - **225 employed women with access to crèches (EAC), 340 employed women with no access to crèches (ENAC), and 563 women not in employment (NE).**
2. **97.8% women in paid work (EAC and ENAC) and 96.9% women not working (NE) mentioned that crèche was an essential requirement.**
3. **Employed women with access to childcare services (EAC)**
 - **34.7% said they were able to join paid work only after having access to crèches.**
 - **88% responded that their income level has improved after accessing crèche facility.** They were earning more as a family and were able to concentrate more on work and meet the needs of the employers. They were also able to work for more hours. The average increase in income was 108%.
 - **61% were accessing NGO services and 21% were accessing crèches run by the government.**
4. **Employed women with no access to crèches (ENAC)**
 - Three important **reasons** attributed by employed women **for not availing crèche services** were - (a) they felt **it was their duty to care for their children**, (b) **elders in the family do not allow it**, and (c) **poor quality of services and apprehensions around them** such as poor hygiene, poor quality of food, discrimination on the basis of caste etc.
5. **Women not in employment (NE)**
 - **88.7% held childcare responsibilities as the main reason for their unemployment.** Out of these 563 women, 271 were in paid employment earlier and 86% of them had left paid work due to childcare responsibilities. 73.2% of women were of the opinion that women do give up paid work after childbirth.
6. **Awareness regarding crèches**
 - **Almost 50% of ENAC and NE women were not aware of the existence of crèche facilities.**
 - **Among the ENAC women, 62.9% were not aware of crèches. They were dependent on informal arrangements and their families for child care.** 59% reported that they were forced to adopt dangerous and compromised choices for childcare as children were either left alone, or carried to the worksites, or left with a younger sibling at home, or left in the care of a neighbor or a friend. This adversely impacted women's productivity and mental wellbeing.

Recommendations:

1. **Universal full-day quality childcare by exploring diverse models to enhance economic and mental wellbeing of women with young children.**
 - This will require upgrading Anganwadi Centres (AWC) to AWC-cum-crèches by adding the care component and bolstering human and financial resources.
 - **A community-based approach to the provision of child-care services can be looked into** in the backdrop of the gradual breakdown of traditional family arrangements of childcare.
 - **There are multiple models operated by different stakeholders.** The state can play the roles of both regulator and provider.
2. **A national strategy on care economy needs to be developed. Addressing care work must be a key policy priority to support women's economic empowerment.** This will help break the gender-based division of labour in the home and address the disadvantages faced by women in earning income, skill development, participating in public and democratic life and having rest and leisure time.
 - **Time-use surveys can help recognise the uneven distribution of care work of women in families.**
 - **Budgetary allocations by the state can reduce and redistribute the unpaid care work by redistributing care work from the families to the state, market and communities,** thereby enabling them to play a greater role in the society.

Ground Report: Improving Access to Rights & Entitlements

When the Brick Kiln Industry and Digital India fail seasonal migrant workers in access to health care, NGOs like CLRA have to intervene ...

Malamoti, aged 79 years and her husband Shani Behera, aged 81 years, arrived from Chhattisgarh at the PKB Eint Bhatta in village Bubani, Ajmer on May 1, 2022. They have been working in the brick kilns for the last seven years and this was their first time in PKB Eint Bhatta. Malamoti was keeping unwell ever since their arrival. They got medicines from the nearby health centre but her health was deteriorating day by day. They were advised to get a sonography done and consult the doctor in the Government hospital in Ajmer.

The couple went to the Jawahar Lal Nehru Hospital for sonography in the hope for better treatment, but had to return back as free medical services were declined in the absence of Aadhar Card and they did not have the money or any other assistance to go ahead. Next day, Shani Behera borrowed ₹1,000 from the contractor and consulted a private doctor. For the next two-three months, they kept borrowing money from the contractor and arranged for the medicines. In three months they incurred a debt of ₹20,000, but Malamoti's health wasn't getting any better. When they finally got the sonography done, she was diagnosed with Atrial Septal Defect (hole in the heart). The private doctor recommended that she should get admitted in the district hospital but due to the absence of Aadhar card, they were again denied treatment and medicines for free.

They shared the incident with the Atma Rawat, the facilitator at the Child Health and Nutrition Centre (CHNC) set up by the Centre for Labour Research and Action (CLRA) in the brick kiln. Atma Rawat communicated their problem to the brick kiln owner and requested him to allow the couple to head back to their village because they were unable to work or get any treatment from the district hospital. The brick kiln owner refused stating that till the time they do not pay back ₹20,000 borrowed for Malamoti's diagnosis, he will not allow the couple to leave and they will have to continue to work in the kiln.

The couple was also struggling to arrange for food as they were busy running around arranging money for getting proper treatment. They had also taken ration on loan and their debt was increasing month by month. They didn't even have any warm clothes to keep themselves warm during the peak winter months. The CHNC facilitator and CLRA team arranged blankets and jackets for the old couple through crowdfunding.

The district coordinator of CLRA once again approached the brick kiln owner, but he was adamant and refused to cooperate. The team informed the owner about the bonded labour law and the employer's responsibility for fair treatment of workers, warning him about the legal repercussions. On asking for details of the work done by the couple, the owner stated that the couple owed him ₹14,000. The CLRA team continued to advocate for the couple until the kiln owner agreed to let them go.

The organisation arranged for their train tickets and they were sent off to their village Leelesar in Chhattisgarh, where Malamoti's treatment has started.

Small steps towards Empowering Women Brickworkers ...

“मैडम हम को तो कभी यहाँ हमारी मजदूरी नहीं मिली, लेकिन खर्ची के पैसे हमारे हाथ में आने से हमें बहुत अच्छा लग रहा है। हम भी काम करते हैं और उस पैसे पर हमारा भी अधिकार है।”

“Madam, we never got our wages here, but with the *kharchi* (money paid to workers weekly or fortnightly to meet their day-to-day expenses) coming into our hands we are feeling very happy. We also work and we too have a right on the money that is paid.”

“हमें खर्ची मिली तो पता चला कि असल में कितना पैसा मिलता है। आदमी तो कुछ पैसा खर्ची में से दारू के लिए छुपा लेते हैं।”

“Now that we got the money, we know what is the actual amount we get. Men keep some money away from us for their alcohol.”

Normally, in the brick kilns *kharchi* is paid to the male workers only every 15 days to help them meet their day-to-day family expenses. The CLRA team organised a discussion on the distribution of *kharchi* among the workers and many aspects came forward. One of those was that men do not allow their women to receive the money and want to have complete control over it. The team then spoke with the kiln owners and some of them were convinced to pay the *kharchi* to the women workers in the kilns. Some women resisted the change, but most are happy about it and claim it as their right.



Ground Report: Improving Access to Rights & Entitlements

Eint se Kalam Tak (From Bricks to Pen)

English translation of an intervention by the Centre for Education and Communication (CEC) in Surir, Mathura

This is a story from village Gadi Parsoti of Naujheel block in Mathura district of Uttar Pradesh, where girls are not allowed to pursue their education beyond 8th standard.

The Centre for Education and Communication (CEC) has been conducting regular surveys among brick kiln workers in Naujheel block. During one such survey being conducted by Bulbul Soni, a staff of CEC, it was found that education of girls was not important for most families. A discussion was held within the organisation to form a *Kishori Samuh* (adolescent girls' group) at the village level where such issues could be discussed and girls could be helped to fulfill their dreams. Initially, all the girls expressed their inability to form a group, but after continuous discussions, some of them agreed. This was the first step towards collective action for a common good.

In a meeting of the *Kishori Samuh* it was discovered that Shabana had dropped out of school three years ago but was keen to study further. She had talked about continuing her education with her family a couple of times but didn't receive any support. Bulbul and the other girls then decided to talk to Shabana's family in this regard.

During their conversation with the family, Shabana's parents said, "*Sabse pehle toh ye ki school dur hai. Shabana ghar ka kaam bhi dekhti hai, aise mein hum Shabana ko padhai ke liye itni dur vidyalay kaise bhej sakte hain?*" (Firstly, the school is far and Shabana also takes care of household chores. In this situation, how can we send her to a school so far?) They tried to make them understand that if they stopped Shabana from getting education, sooner or later they might see her also working with them in the brick kilns and continuing with a life of drudgery and miseries which they face. But if they were to consider the request, it might change Shabana's life forever. The father was left to himself on the note that nobody can pressurise him, but he must think about this.

After two days, Shabana's father reached out to Bulbul and asked, "*Hamari bachi aage padhai karna chahti hai lekin ek toh ladki hai, upar se itna dur isko bhejna kya sahi hoga?*" (Our daughter wants to study further, but firstly she is a girl and on top of that will it be safe to send her so far?) Bulbul informed him that the government is running a lot of schemes that are focusing on the education of the girl child, keeping in mind their safety and security. Bulbul convinced them that the CEC team will try to enrol her in the nearby government school.

The next day, Bulbul spoke to her co-workers regarding this and they all visited a nearby school for Shabana's enrolment. But the school Principal refused admission on the grounds that they have no seats and they have to maintain a student-teacher ratio. The next day, the team approached another school. A discussion was held with the Principal who agreed to admit Shabana as they had two seats left to be filled in class 9. Noticing some overwriting in Shabana's transfer certificate, the Principal asked them to get a new one and promised her admission once all her documents were complete as per the requirements.

Thus began the task of getting Shabana's documents in place and getting her enrolled in a school after a long gap of three years. For the next three days, the CEC team along with Shabana visited her old school where she was enrolled three years back. The team informed the Principal that Shabana had to discontinue her education due to certain reasons and had now decided to get back to school. They requested the Principal to provide a new transfer certificate for Shabana. The Principal was not very convinced at first, but subsequently issued a new transfer certificate to Shabana thinking about the importance of education the girl child and giving her an opportunity.



Need to Prioritise School Enrolment of Children of Brick Workers

A Key Intervention Strategy followed by the Centre for Education & Communication (CEC)

One Nation One Card: Overcoming the challenges faced on ground with the support of Trade Unions and NGOs...

Umar Ali is a brick moulder from village Udanpur in Bareilly District of Uttar Pradesh. In October 2022, he and his family came to work at VBC Brick Kiln in Ladpura, District Ajmer, Rajasthan. In November 2022 members of a brick kiln workers' union reached out to the workers at VBC Brick Kiln to inform them about the One Nation One Ration Card (ONORC) scheme. The workers were told that they were required to register themselves online or on the Mera Ration App in order to get ration under the ONORC scheme. Umar Ali had a ration card covering 10 out of the 12 members in his family, all of whom had accompanied him to the brick kiln for work. Without wasting time, Umar went ahead and registered on the mobile App. His family was now eligible for ration under ONORC. In December 2022 he went to the fair price shop in Ghughra but the ration dealer was not available. When he contacted the dealer on phone, the dealer avoided conversation and promised to get in touch with Umar the next day. Umar did not hear from the dealer for the next 3-4 days, where after he went to another ration dealer in Ladpura, who refused to give him any ration on the ground that he has a large family. Umar shared his struggle with members of the workers' union, who then approached the dealer. The dealer told them that the government was now giving double ration and he did not have sufficient stock. The union members then went to the District Supply Officer (DSO), Ajmer, who spoke with the ration dealer. This helped Umar Ali get 50 kg wheat and the ration dealer promised him another 50kg wheat after a week.

Santoshi Devi is from Nagaur District of Rajasthan and had come to work in JMD Brick Kiln in Bubani, District Ajmer for the first time in her life. During a survey at the brick kiln by the Centre for Labour Research and Action (CLRA), Santoshi shared that she had just got separated from her husband and was now having to buy ration as her husband is using the ration card in the village. As a result, she was also not able to save any money that she earned. Priya Rawat of CLRA, who was conducting the survey, informed her about ONORC but Santoshi was hesitant to go to the ration dealer all by herself. Priya thus accompanied her to the ration dealer and shared Santoshi's situation with him. The dealer asked Santoshi to come back to him on the 1st day of next month for biometrics.



On 1 October 2022, accompanied by Priya, Santoshi went to the ration dealer but the machine was unable to capture her finger prints. The dealer then asked her elder son to try and it worked. On 2 November 2022 Santoshi managed to get her ration.

Gujarat Government Notified 125 Percent Hike in Minimum Wages for Brick Kiln Workers: Result of a 13 Year Struggle by Workers Union

The Gujarat Government notified the minimum wages for brick moulders @ Rs. 293 per 490 bricks on 5th of October 2021, superseding its earlier notification dated January 2, 2020, which had notified the minimum wage for 1100 bricks. This marked a 125 percent hike in the previous wage rate, an increase unheard for any section of workers in India. The notification was the result of a 13-year long struggle waged by Int Bhatta Majdur Union, Ahmedabad, for scientific determination of piece rate minimum wages. This is a story that needs to be told.

While statutory minimum wages are normally declared on a time rate basis for eight hours of work, for some occupations the state declares minimum wages on a piece rate basis. However, the piece rate is determined arbitrarily. This was the case for brick kilns in Gujarat, where the minimum rate was declared for every 1100 bricks moulded by hand. The Int Bhatta Majdur Union, a Union of brick kiln workers in Gujarat, that started working in the year 2008 realised that the government rate is completely unrealistic. The number of bricks to be produced per day was pegged much higher than the average eight-hour production. The Union first submitted its memorandum to the Advisory Board on Minimum Wages on 30 October, 2008 demanding fixation of piece rate after a scientific Time Motion Study. The Board in turn forwarded this recommendation to the State Government. After repeated reminders to the Gujarat Labour Department did not bear any fruit, Centre for Labour Research and Action, a Gujarat based labour rights NGO sponsored a study by the Industrial Design Centre of IIT Bombay to determine the average production of brick kilns in an eight-hour day. The Industrial Design Centre of IIT Bombay is a world-renowned centre for such work. It undertook the study in the year 2013 and submitted its report in the year 2014. The report estimated average number of bricks moulded by a single worker in an eight-hour day to be 490. The report was shared with the Gujarat Labour Department by the Int Bhatta Majdur Union.

Bowing to the logic of the argument that the per day piece rates notified as minimum wages must be determined on a scientific basis, in the year 2015, the Gujarat Government asked the Mahatma Gandhi Labour Institute (MGLI), Ahmedabad to set up a committee to undertake a Time Motion Study to determine average production by one worker in an eight-hour day. The state Government left out brick kiln workers from its five yearly notifications for statutory Minimum Wages on the ground that the same will be notified after the results of the MGLI committee become available. The MGLI Committee submitted its report to the State Government in the year 2017. Its findings matched the results of the earlier study by IIT Bombay.

However, what came as a shock to the Int Bhatta Majdur Union was that on 2nd January 2020, the State Government again notified the statutory minimum wage for brick kiln workers on the old pattern for 1100 brick kilns, completely disregarding the findings of its own committee. This led to the Majdur Union filing a Special Civil Application in the Gujarat High Court in September 2020 demanding quashing of the notification and issuance of a new one based on the findings of the MGLI study. The State Government informed the High Court that it will issue a new notification, following which the High Court disposed of the matter. The new notification was issued on 5 October, 2021.

It could be called a happy ending, though it is the beginning of the real struggle to translate the Government Notification into actual wages on the ground. Majority of the brick kiln workers in Gujarat are seasonal migrants from states like Chhattisgarh, Rajasthan, UP who are brought against advance payments on pre-determined wages for the whole season.

Dinesh Parmar, Secretary, Int Bhatta Majdur Union
242 Baronet Complex, opp. Sabarmati Police Station, Ahmedabad - 388005

The minimum wage struggle in the brick industry

Implications of the Gujarat Norm for other states

The minimum wages for brick kiln workers may be fixed on piece rate basis or time rate basis. According to Mr. Sudhir Katiyar of the Centre for Labour Research and Action (CLRA), in both these situations, the example of significant hike in minimum wages for brick kiln workers in Gujarat can be used to fix the minimum wages in other states.

Uttar Pradesh

In many states, minimum wages are announced on a time rate basis. The minimum wage for semi-skilled workers in the state of Uttar Pradesh is Rs.10,483 per month i.e. Rs. 403 per day if 26 working days are considered in a month.

The brick kiln workers are paid on a piece rate basis, with actual wages ranging between Rs. 550-600/1000 bricks in most areas. Following the Gujarat norm of 490 bricks moulded on an average by a single worker in an eight-hour day, piece rate wages can be enhanced to Rs. 822/1000 bricks [Rs. 403 per day x 490 bricks].

Rajasthan

In Rajasthan, the minimum wages are announced on a piece rate basis.

Minimum wage for brick kiln workers is Rs. 283/1000 bricks.

If the same rate is used for moulding 490 bricks, which is the average number of bricks that can be moulded by a single person in an eight hour working day as per the Gujarat norm, the cost of moulding one brick comes to Rs. 0.578 [Rs. 283 ÷ 490 bricks]. The cost of moulding 1000 bricks would thus be Rs. 578 as against the actual wage of Rs. 520 to Rs. 550 per 1000 bricks being paid to brick moulders in Rajasthan.

Let us examine the minimum wage struggle in the brick kiln industry a little more with insights from Mr. J. John, former Executive Director of the Centre for Education and Communication (CEC), Editor of Labour File and Founder Member of the Social Security Now campaign...

Bharti: At the very outset, I thank you for agreeing for the interview at a short notice. As shared, the Gujarat government has successfully fixed time rate minimum wages for piece rate work in the brick kiln industry. Inevitably, the first question our readers would be interested in is how does this industry operate and what are the minimum wage entitlements of brick kiln workers. We understand that different states have their own regulations with respect to minimum wages, but would like to understand the issue in greater detail in the context of brick kiln workers.

J. John: The Gujarat government notification of October 5, 2021 that has fixed a time rate minimum wage of Rs. 293 for moulding 490 bricks per day for a single person is an extremely progressive notification. Such a notification is not easy to come through, which also means that the labour union actually played a great role in pushing for it. It changes the number of bricks possible to be manufactured in a day and then adds the value of one day's wage to it. Earlier, Gujarat had fixed the same rate of Rs. 283 for 1100 bricks, which was probably taking into consideration family as a unit and not the individual worker. Usually, 1100 units is attributed to a family in the brick kiln industry and the labour of women workers or children gets subsumed in it. So there is a kind of non-recognition of the work done by female members or the other members who are part of brick moulding and other processes. That is the basis on which the wages are paid in the brick kilns. Every member of a family engaged in brick production must be considered as an individual and independent unit when minimum wages are determined. Therefore, the Gujarat notification is not only about a change in the number of bricks from 1100 to 490, but also about a recognition of individual labour and women's contribution in brick production. In that sense, it is a very positive move and should be appreciated. At the same time, it is important to verify that it is interpreted the same way when it gets implemented on the ground. The order definitely reinforces equal wages for men

and women for the same work. That is good, but it should also get implemented. And if it is not, then that should be the point of struggle and a continued negotiation should happen.

As regards determining minimum wages, there are a number of aspects to be looked into. Time rate wage in the Gujarat case has been fixed on the basis of a time motion study, but we need to understand the basis for determining minimum wages beyond that. The Minimum Wages Act, 1948 and how the minimum wages are getting implemented has a history that might have been applied, though one does not have enough information in that regard. We need to see if the 15th Indian Labour Conference (ILC), 1957 formula has been applied, which talks about a need based minimum wage, also determined on the basis of a number of criteria. The ILC has talked about 2700 calories intake per adult person per day as a necessary criteria. It has also talked about a standard working family comprising three consumption units per wage earner, without incorporating the earnings of women, children and adolescents; the clothing requirements at 72 yards per annum for an average working family of four; a house rent corresponding to the minimum area provided for under the Government's Industrial Housing Scheme; and 20 per cent of total minimum wage for fuel, lighting and other miscellaneous items. Whether these criteria have been considered, may be something to be looked at. In other words, the minimum wages in brick kilns should also be based on the minimum wage determination policy.

The Gujarat notification is ...about recognition of individual labour and women's contribution in brick production. ...it should also get implemented.

The second aspect I would like to highlight is with respect to the very structure of brick kiln industry and how it evolved. I don't know whether adequate examination has happened on this aspect while fixing a time rate minimum wage. Here I am referring to the introduction of family wage system in the brick kilns; why does that happen in brick kilns and not in other occupations. This is a colonial legacy, introduced by the British. It's a legacy that we continue, while in many places such a system has been discontinued. Two industries where this kind of labour and the system have evolved are the plantations and the brick kilns. Both have colonial legacies. Historically, brick manufacturing in India was not the same as it exists now. Changes happened sometime in 1850s. What we had earlier were the clamp kilns, managed by the *Kumhars*.

Brick kilns are largely concentrated in the Indo-Gangetic and Brahmaputra plains, the area extending from Pakistan to Bangladesh. A character of this area is the use of clay bricks for masonry, taking advantage of the availability of fine alluvial clayey soil deposited by the river systems. The use of clay-bricks for construction activities in South Asia may be 4000 years old. Indus valley civilisations have reportedly used sun-dried and fired bricks extensively for the construction of buildings, streets and canals. Though the application of technology of making bricks in the same way was not reported in the subsequent periods, *Kumhars* emerged as the technology keepers of brick making and clay pottery at the village level. But

The bricks were not just produced in India, but also produced in Europe and Britain during the colonial period. They had a system of contract labour, where a brick master was hired at a price per thousand bricks, who in turn sub-contracted work to moulders, who managed gangs of workers including family labour. In Europe however, that system changed.

In India ...slavery, bondage and the brick kilns, the way in which the British introduced them, co-existed and coalesced.

a change happened when the British required large scale production of bricks in India, mainly during the railway line and irrigation canal construction. The Bull's Trench Kiln, the most widely available brick kiln manufacturing system, was invented in India in the 1870s by William Bull, an engineer based in Kolkata, to meet the requirements of bricks at scale. The bricks were not just produced in India, but also produced in Europe and Britain during the colonial period. They had a system of contract labour, where a brick master was hired at a price per thousand bricks, who in turn sub-contracted work to moulders, who managed gangs of workers including family labour. In Europe however, that system changed. The change was in the way in which the bricks were manufactured and the way in which the labour was deployed. You might have heard about the Hoffman Kiln. The Hoffman Kiln was a

German invention. In Britain, the nineteenth century saw a number of inventions in brick making including that of introducing large-scale manufacturing of hollow bricks that replaced small scale brick making, which made use of cheap juvenile and family labour. In India, as mentioned earlier, the British did not import the emerging brick making technologies, but imported the methods of accessing labour and their deployment. William Bull's Trench Kiln precisely did this function. When the railway construction was taking place in India, brick kilns came up where the main railway lines and bridges were set up. The *Kumhars* could not meet the requirement of bricks and the old system of producing bricks in India was not capable of supplying the required quantity at that time. Therefore, the Bulls Trench Kiln was introduced, which could be demolished and taken to another place. It was not a permanent structure. They also needed workers in large numbers and they engaged people who did not have knowledge of working in clay or making bricks. To get workers, they engaged agents, called the *Gangers*. These gangers went to villages and brought workers to the site. The people



coming to the kilns were the people who were impoverished. There were also land reforms being introduced by the British and the agricultural crops were being changed, which created availability of vulnerable people looking for employment. The gangers in the village would bring the workers to the workplace and once the work was over after four or five or six months, the villagers would go back. To do this, the advance payment was introduced at that time. The colonial powers did not bother to rationalise India's traditional knowledge in brick making. They did not bring in new technologies being developed in their own countries. Instead, they introduced to India a way of sourcing labour, organising them and deploying them for industrial production of bricks. The same method was adopted by the colonialists for plantation labour and they called it *Kankani* system, where the agents went and brought workers, who were slave workers. So slavery, bondage and the brick kilns, the way in which the British introduced them, co-existed and coalesced. Another factor was the caste system in India. The division of labour within the brick kilns went along the caste line. Most people who were working with soil, were the *dalits*. And so, even now, the moulders are mostly *dalits*, and they are not allowed to move up the hierarchy in the same way as in the plantations, where they are always pluckers. They cannot go up in the hierarchy as a supervisor or as a machine operator in a factory. The way in which brick production is carried out, has a lot to do with the way in which the work is organised and the labour is deployed. This is something which is not being studied much. So, caste based deployment of labour in brick kilns is not a new phenomenon; it is related to the way in which the work is organised and the production is organised in the brick kiln industry in India. In textiles or any other industrial segment, services or government jobs, there has been a process of breaking the caste system; but in the brick kilns and plantations, the caste system got entrenched.

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Now, coming back to the issue of wages in brick kilns, the wages got determined keeping the family as a unit because the colonial brick manufacturers engaged family labour in moulding and that continued. We need to consider this aspect if we have to make

changes in the system and practices. If there is no structural change in the way in which brick is being manufactured in India, this system will continue and it's a very serious concern. The Zig-zag kiln that has been introduced in recent times is also not very different, because it largely retains the way in which the worker is deployed, though there is associated mechanisation in some cases. A question may be raised, that if the industry changes the way in which bricks are manufactured, will it not affect the workers negatively and it not lead to large scale unemployment. My concern here would be that are we to perpetuate bonded labour in the name of safeguarding employment? What is employment for? Is employment for sustaining or entrenching a bondage system or caste based occupations as in the case of sewage management? There was opposition to introducing new ways of managing the sewer lines saying that workers will lose their job. But do we want to sustain the caste system; do we want to sustain the extremely dangerous conditions of work for certain groups of people and demarcate certain work only for a particular caste, or do we need to change all this? In the same way, the brick kilns also require a kind of a radical change from the Bull's introduced method of production of bricks to new ways of production. If not, the exploitative system will continue. Therefore, even after introduction of a new minimum wage for brick workers by the Gujarat government, if the system of family work continues, can each and every worker get their due share of wages? Will work continue to be segregated along the caste lines? These are concerns that will have to be raised simultaneously.

There was opposition to introducing new ways of managing the sewer lines saying that workers will lose their job. But do we want to sustain the caste system; do we want to sustain the extremely dangerous conditions of work for certain group of people and demarcate certain work only for a particular caste or do we need to change all this?

Bharti: You have raised several questions in my mind as you spoke. The minimum wages in different states are fixed for skilled, semi-skilled and unskilled work, and brick moulding is found in the category of semi-skilled work. It is confusing to see how different states treat the subject. It is even more confusing to understand how they arrive at the minimum wages for moulding of bricks, which involves family labour, whereas the minimum wages are fixed for an individual and not for a family. Another issue that comes to my mind is about the advance payment - how does one fix minimum wages when there is an advance payment made? We have been talking to a lot of people in Ajmer and Bhilwara and also in Surir about the advance payment. Most brick kiln workers want advance to meet emergencies and cover critical expenses. They say they will never be able to collect huge amounts of money if they were to be paid on a day-to-day or monthly basis. As you said, there will have to be structural changes in the brick kiln industry to end the bondage system perpetuated through



advance payment, but the people don't seem to be ready for it and we don't see a very strong labour union discussing these issues with those directly affected. Another question that comes to mind is with regards to the Zig-zag technology - why can't the workforce in the brick manufacturing industry be skilled in such technology? Annual Reports of the Ministry of Labour & Employment talk about skilling workers. When you search for social security measures for workers in the unorganised sector, skilling is one of the schemes that comes up, where they tell you how many workers have been trained in what processes. If they are introducing the Zig-zag kilns, which they have to, given the judgements from the National Green Tribunal Act as well as the Supreme Court, why can they not invest in skilling the same labour force in new technology? Is it about maintaining the caste hierarchy or is there something more to it?

J. John: Indeed, there are multiple issues involved. One issue is of advance payment. I'd like to reiterate that there may not be other employments where wages are paid against advances. This is the basis for bondage. It is not free labour. It is

The advance is a historically given factor because of the way in which the brick kiln work is organised.

Gujarat government's order has given a different basis for determining wages in the brick kilns. If the workers are given wages after they arrive at the kiln, and if they have decent space where they can live and if they are paid on time, there is no need for an advance.

not the free choice of the workers. The workers are brought in as migrant workers and that increases their vulnerability. For brick manufacturing, if soil is the raw material, the production will have to be where the raw material is available. As in the case of any other industries, if the workers are going and taking up the employment at their will, then there is no need for an advance payment. The advance is a historically given factor because of the way in which the brick kiln work is organised. The very technology entrenches seasonality and necessitates a

process of obtaining workers from elsewhere, increasing their vulnerability by giving them an advance, and creating a relationship of bondage. It is their vulnerability and the way in which they are recruited that creates the need for an advance, not otherwise. And also because they migrate as family units, they need an advance. The structural and historical aspects need to change. Probably, what the National Green Tribunal has said about no brick kilns in the National Capital Territory of Delhi due to pollution, should extend to other places. It is an established fact that brick kilns cause atmospheric pollution. Working in the brick kilns is very unhealthy for the workers who are exposed to all the suspended particles. And if this has to change, we have to look for something more. Gujarat government's order has given a different basis for determining wages in the brick kilns. If the workers are given wages after they arrive at the kiln, and if they have decent space where they can live and if they are paid on time, there is no need for an advance. A new system can be introduced and the government can completely stop the advance payment and the way in which this industry is organised.

There is a big problem with unionization of workers because of the seasonal nature of work in the brick kilns. The same workers need not come back to the same kiln or same place. The organisation of work in the kilns ensures that the workers cannot unionise. And that is what the British had done; they did not want any unionisation in the kilns. There aren't many unions of brick kiln workers, so they cannot actually demand or negotiate for their rights.

The organisation of work in the brick kilns ensures that the workers cannot unionise.

The third aspect that you mentioned is about skilling. The Minimum Wages Act is a very important law, but as you know, it is not universal. It is only applicable to the scheduled employments - the employments mentioned in the schedule of the Act. There is no uniformity in defining skills. Moulding bricks, for instance, is not something that everyone can do and can thus be considered as skilled work, but it is not. The classification of work, in general, into highly

Just skilling and then entrenching caste based occupation is not a solution. The skilling should break the caste system and caste based division of labour.

skilled, skilled, semi-skilled and unskilled is something which has been discussed over a period of time but the confusions continue to exist. Having said that, the question is - skilling in what and for what? Can the brick moulders be skilled to do the firing of bricks? Why should the workers remain at the level where they are entering? Why can't there be vertical mobility? Just skilling and then entrenching caste based occupation is not a solution. The skilling should break the caste system and caste based division of labour, and if that happens, it is good, otherwise the situation will not change. Moulders know their work, but if they have to be skilled, then for what? These are issues to be considered very seriously if we are to break the caste based divisions in the brick kilns.

Another concern is regarding the status of the Minimum Wages Act in the light of the new Code on Wages, which was introduced in 2019. In 2020, the rules on wages have also been introduced, which could imply that the Minimum Wages Act ceases to exist. The Code on Wages, 2019 subsumes Minimum Wages Act, 1948, Payment of Wages Act, 1936,

Payment of Bonus Act, 1965 and Equal Remuneration Act, 1976. The status of the Minimum Wages Act is not clear because of the ambiguity regarding the implementation of the Code on Wages. A positive aspect of the Code on Wages is that minimum wages are applicable for all employments. However, the Code on Wages introduces a national floor wage, in addition to the minimum wage. According to the Code, the central government, in consultation with state governments, will fix a floor wage, taking into account living standards of workers and for different geographical areas. Draft Rules under the Code on Wages mention the geographical areas as metropolitan, non-metropolitan and rural areas, though they do not specify the criteria for setting the national floor wage. The minimum wages have to be determined for certain occupations by the central government and for certain others by the state governments, which in any case, must be higher than the floor wage determined by the central government. Fixation of floor wage and minimum wages should be diligently watched by workers, labour unions and labour activists. The order of the Gujarat government is based on the Minimum Wages Act, 1948 and on the other hand, draft rules for the Code on Wages, 2019 have been notified. Therefore, it is worthwhile to examine the Gujarat government order in the light of the Code on Wages. In short, we should be aware of the implications of the Minimum Wages Act being subsumed under the Code on Wages.

The Code on Wages, 2019 subsumes Minimum Wages Act, 1948, Payment of Wages Act, 1936, Payment of Bonus Act, 1965 and Equal Remuneration Act, 1976. The status of the Minimum Wages Act is not clear because of the ambiguity regarding the implementation of the Code on Wages.

...it is worthwhile to examine the Gujarat government order in the light of the Code on Wages.

Bharti: Well, that's an interesting aspect which definitely requires more study and as you said, we will have to see how the Gujarat decision is panning out on the ground. With such in-depth understanding and insights that you have shared with us, who in your view needs to do what, if things have to change.

J. John: Everyone will have to raise these concerns and everyone will have to act and play their role. The Gujarat union of brick kiln workers got into action and it had an impact. We have to raise the concerns at the national level and ask how the continued structural and systemic existence of bondage in the brick kilns can be changed. We must continue to monitor the basis for determining the wages in the brick kilns.

The Tripartite Committee on Fair Wages (1948) had talked about three different levels of wages - one is the minimum wage, second is fair wage and the third is the living wage. The committee observed that the 'minimum wage' at the lowest level must not be merely for the bare sustenance of life, but for the preservation of the efficiency of the worker. The Indian Labour Conference (1957) however, has said that minimum wage must be a need-based wage, where the need is defined in terms of minimum requirements, including the calorie-intake. The 'fair wage', according to the committee, will have to be based on the productivity of labour, the employer's capacity to pay and which would generate more employment. It's a negotiated wage. And then there is the 'living wage', which is the highest wage to be aspired for. For brick kiln labour, what we should aspire for is to get a living wage and not a minimum wage; and the minimum wage should be able to take workers beyond subsistence, towards a negotiated wage in accordance with the increasing productivity of labour. The minimum wage is not something that we should be satisfied with. When can we ask for living wage in the brick kilns? Unless and until the brick kiln character itself changes and the character moves away from servitude-based brick processing to a little more open free access, where the workers have the right to go there on their own and work, rather than through agents and through advance payments. We should surrender to a perspective historically given to us and accept it without thinking beyond. We need to set larger goals and then work towards them.

Bharti: So that means a lot of work for the Trade Unions to do, even if this sector is not unionised the way it should have been. And do you see ILO as an ally in this?

J. John: Yes, yes! Definitely!

HAQ: Centre for Child Rights is extremely grateful to Mr. J. John for sharing his thoughts and giving us a lot of food for thought. In the last newsletter, Dr. Sameer Maithel talked about bringing technological and structural changes in the brick manufacturing industry keeping in mind the environmental concerns and now Mr. J. John reiterates the same from a labour rights perspective.

final thoughts...

The key to change ...

- Coming Together with National Campaigns and networks for Securing Right to Health, Food & Nutrition, Early Childhood Care and Development, Education, Protection and Participation for Children of Brick Kiln and Other Seasonal Migrant Workers

- Roundtable with Parliamentarians

@ 7 December 2022 | Deputy Speaker Hall, Constitution Club, New Delhi

Promoting Health, Nutrition and Labour Rights for Women, Children and Workers in the Brick Kilns of India

Regional Consultation

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“Education has been the strategy for eradication of child labour. But hunger and malnutrition go hand in hand with education. How can a hungry child concentrate on education?”

- Usha Ramanathan, Human Rights Activist

“Social Security should be a public responsibility; services like gratuity, maternity leave, pension etc. for every citizen in the country and it should not be provided as an act of benevolence.”

- J John, Social Security Now



“If anyone wants to act in an effective way they must know the ground realities through consultations like Manthan.”

- Sh. Manoj Jha, Rajya Sabha MP

“It is profoundly clear that everyone is against the child labour system, but the amount of money spent every year on the activities that can put an end to child labour is pittance.”

- Sh. Sri Krishna Devarayulu Lavu, Lok Sabha MP

coming soon >>>

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The new Labour Codes and their implementation

Legal developments promoting rights of brick kiln workers: Insights from important Supreme Court and High Court judgements

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