

Report on the Social Audit of the BOCW Welfare Board, Rajasthan

Salumbar Block (Udaipur), Rajasthan | 17-22 September, 2018

Aajeevika Bureau

28 September, 2018

Introduction and Background

In response to a PIL [Writ Petition (Civil), 318/2006] filed by the National Campaign Committee For Central Legislation On Construction Labour (NCCCL), the Supreme Court directed the Central Government on March 19, 2018 to facilitate a nationwide social audit of the Building and Other Construction Workers Act (BOCW), 1996. Part of the judgement read,

Our fourth direction is to the Ministry of Labour and Employment, the State Governments and the UTAs to conduct a social audit on the implementation of the BOCW Act so that in future there is better and more effective and meaningful implementation of the BOCW Act. If a mistake has occurred, it is more appropriate to admit the mistake for a better future rather than to justify it or continue to repeat the mistake. This is more so in the case of the BOCW Act where crores of men, women and children are involved on a day-to-day basis and Parliament has thought it appropriate to legislate for their benefit. State Governments and the Welfare Boards in every State and UTA to conduct a social audit.

A subcommittee created by the Ministry of Labour developed a social audit framework in accordance with the rules set forth by the Office of the Comptroller and Auditor General, which it adapted specifically to the BOCW Act. The subcommittee recommended that a pilot social audit be carried out in one ward in Delhi and one block in Rajasthan to test the implementation framework before the audit is conducted nationwide.

Aajeevika Bureau was selected to facilitate the social audit in Salumbar Block, Udaipur District. This occurred from 17-21 September, 2018, with a *jansunwai* (public hearing) on 22 September, 2018.

Objectives

In keeping with the principles of a social audit, Aajeevika Bureau focused on Salumbar's residents' relationships with the BOCW Act, Board and their associated processes and benefits. During the audit, the team sought to better understand the following:

Eligibility: The team aimed to understand whether the benefits and information about the Act and the Board were reaching the intended citizens.

- How many cases exist of eligible labourers who are not registered? Are these cases isolated or do they constitute a larger trend? Either way, why is this the case?
- What proportion of registered beneficiaries are ineligible for registration under this Act?
- What processes have enabled ineligible applicants to avail of benefits, if such systems exist at all?

Application Process: In order to review the Act's implementation on the ground, the team focused on questions of accessibility and efficiency.

- Which institutions enable citizens to access the registration process and the schemes? What is the smallest unit of governance—panchayat, block or district—that provides official mechanisms to access benefits?
- How efficient is the registration and the scheme application process? For instance, how long after applying does it take to receive the labour card or scheme benefits?
- What proportion of registered beneficiaries have been able to access benefits? Are there beneficiaries who were eligible for certain benefits but could not access them? Why?

Information: For current beneficiaries and other eligible labourers to effectively access the Act, its processes must be transparent and readily available to them.

- What information channels (public and non-government implemented) related to the Act and the Board exist at the panchayat and block levels?
- What proportion of people are aware of the Board's schemes and application processes? Importantly, do they know which categories of employment are eligible under the Act and how much they can receive under various schemes?
- Are there structural inequalities between communities/geographies in this regard?
- If an application for registration or scheme has been rejected or requires further clarification, how does the government communicate the reason to the applicant? Are people aware of these channels?

Disbursal of benefits: This category helped the audit team compare what applicants were actually paying and receiving with the officially sanctioned fees and benefits.

- In both the registration and the scheme application process, are there any leakages causing money to be spent where it should not be?
- What form does this take—advance payments, cuts from received benefits, or others?
- If leakages exist, how does the amount compare to the sum of benefits received by applicants? That is, what proportion of benefits never reaches the applicants due to leakages?

It is worth noting that in addition to these objectives, the team sought to place its findings in the context of existing social structures and hierarchies. In other words, by exploring how caste, class, gender and geography played a role in citizens' access to information, schemes and disbursal of benefits, the team attempted to make its analysis more comprehensive. All trends and case studies were presented publicly at the *jansunwai* on September 22, 2018.

Methodology

In consultation with the Ministry of Labour's subcommittee (that had identified Rajasthan to conduct one of two pilots), Aajeevika Bureau selected Salumbar block (Udaipur district) as an appropriate location to conduct the social audit. Within Salumbar block (containing 32 panchayats), Aajeevika Bureau identified 23 panchayats to collect data from.

Of these, 13 were chosen such that in each one, the residents had made at least 20 scheme applications. These panchayats were: Adkaliya, Baroda, Bassi Samchot, Bassi Jhoonjhawat, Chibora, Dagar, Iswaras Dangiyani, Itali-Khera, Kharka, Noli, Thara, Toda and Utharda. The remaining 10 panchayats were divided into 3 subgroups: those with less than 150, 150-300 and greater than 300 registration applications. These panchayats, by group, were: Karawali, Orwadiya and Kherad; Makarsima, Lambi Doongri and Dharod; Bamaniya, Dal, Saradi and Seriya. It is worth noting that the sample chosen contained panchayats with a wide variety of registration numbers and application date ranges, as well as diverse demographic profiles.

Teams of 2-5 people visited each panchayat to conduct door-to-door interviews and gather findings. The list of audit team members has been attached in Annexure 1. To make the interviewing experience and data analysis efficient, Aajeevika Bureau used a digital data collection tool, Kobo Toolbox, which has been designed specifically for offline data collection in the field. The questions asked to each registered beneficiary have been attached in Annexure 2. In addition, every audit team carried with itself hard copy forms to register complaints from citizens and to document labourers who were eligible for registration but who had not yet applied for a labour card.

In cases where the applicant was not in their home, the teams would request to speak to them via telephone. Only as a last resort would they interview a family member, and even in this case, the name of the family member and their relationship with the applicant was recorded.

Following a 5-day interviewing period, a *jansunwai* was held at Salumbar's Senior Secondary School on Saturday, 22 September, 2018. Government and civil society representatives who were present included District Collector Bishnu Charan Mallik, Subdivision Officer Dharmraj Gurjar, Additional Labour Commissioner P. P. Sharma, Development Officer Chandmal Soni, Subhash Bhatnagar of the National Campaign Committee for Central Legislation on Construction Labour (NCC-CL), Aajeevika co-founder Krishnavtar Sharma, Shankar Singh of the Mazdoor Kisan Shakti Sangathan (MKSS), Vipul Pandya of the Bandh Kaam Mazdoor Sangh, Ahmedabad and Astha Sansthan's Shyam Manoriya.

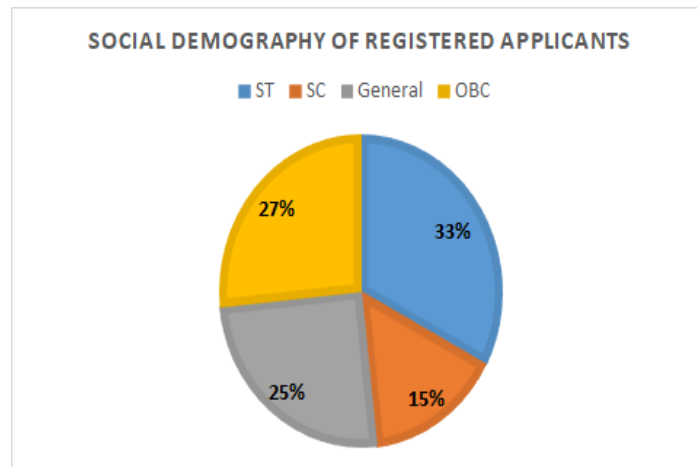
During this public hearing, Aajeevika read aloud its findings to the government authorities, following which citizens presented their individual grievances to seek redressal. Minutes of the *jansunwai* are attached in Annexure 3.

Findings

Overall, the social audit team interviewed **1474** individuals, broken down as follows:

- ST: **482 (32.7%)**

- SC: 229 (15.5%)
- General: 371 (25.2%)
- OBC: 392 (26.6%)



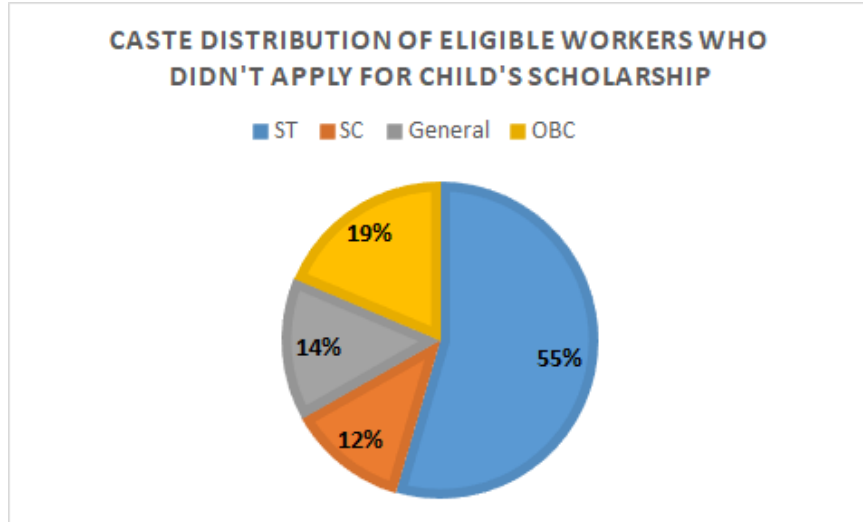
Of the 1474 registration applications, 74 were rejected or pending, leaving **1400** successfully registered applicants. Below are the audit team’s findings, based on interviews and the *jansunwai*.

1. Non-construction workers registered as beneficiaries: 546 (39%) registered beneficiaries were employed in non-construction sector jobs, ranging from housework and retail to running their own businesses. In one case in Dharod panchayat, an *Emitra* successfully filed an application for himself, and in another case in Makarsima, a peon in a government office was registered under the Act. For most cases—usually involving agricultural or other non-construction manual labour—the labourer was misled by an agent or did not have sufficient information to understand that she was not eligible for the benefits of the Act. As such, the issue of lack of information is deeply linked to the registration of ineligible workers. In fact, in several cases, agents actively persuaded such citizens to register under the Act and apply for schemes—this way, it was more likely that the agent would earn a cut of their benefits.

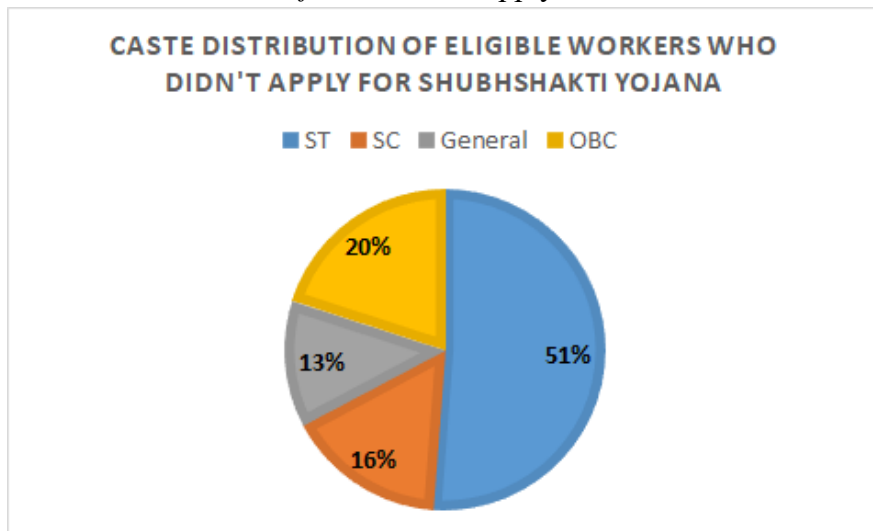
2. Construction workers unregistered: Over 275 unregistered labourers living or working in Salumbar block were found to be eligible for registration under the Act. In the context of ineligible beneficiaries actually receiving benefits, this means that the Board and the Labour Department are unable to reach their intended beneficiaries. This is further compounded by a general lack of information among the communities in question, who are unable to easily access the Board or the Department to avail of benefits, or to hold them accountable for not implementing the Act.

3. Large numbers of eligible citizens have not applied for schemes: The audit team came across citizens who had a labour diary or card and were eligible for certain schemes at the time of the interview, but had not applied due to a lack of information or inaccessible application mechanisms. The numbers break down as follows:

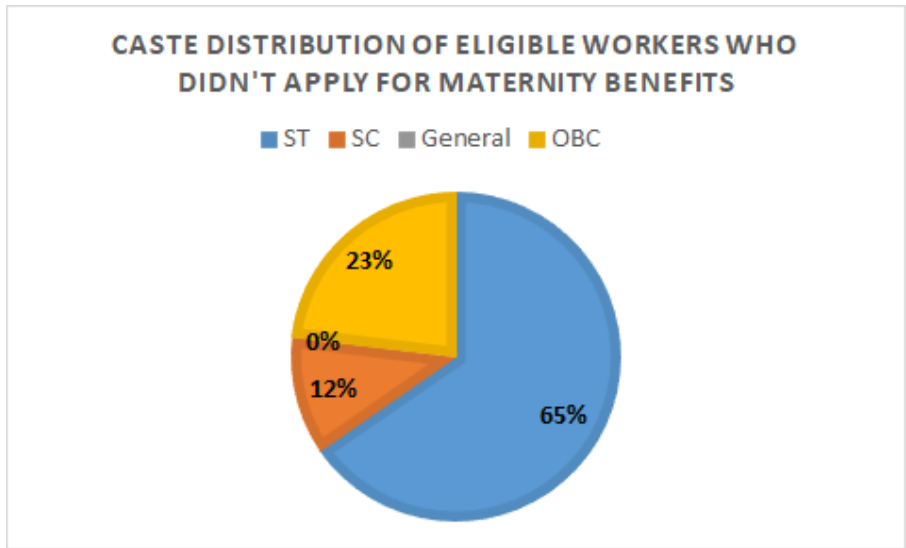
a. Eligible for child's scholarship but didn't apply: **220**



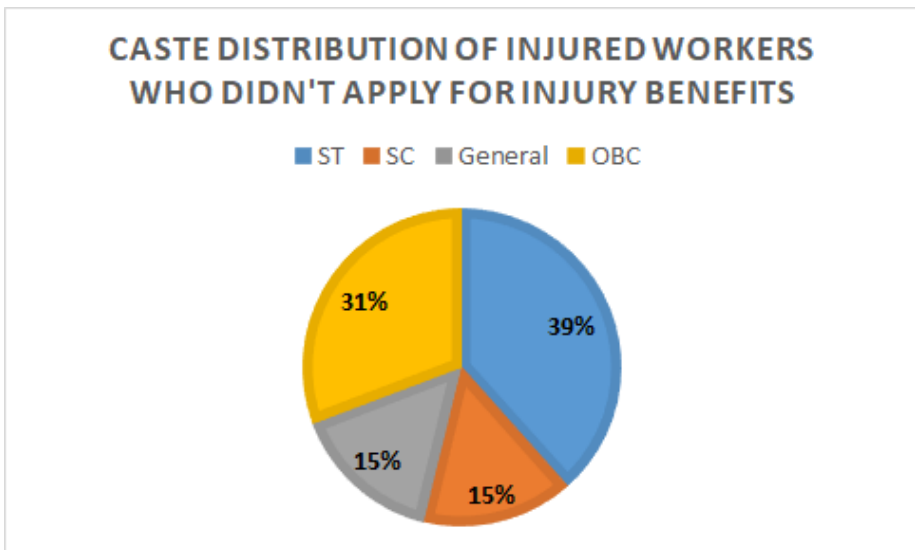
b. Eligible for *Shubhshakti Yojna* but didn't apply: **125**



c. Eligible for maternity benefit but didn't apply: **26**



d. Injured during an accident but didn't apply for injury scheme: **26**



This demographic breakdown, particularly when compared with the overall caste breakdown of interviewees, is striking. In Salumbar, STs are receiving disproportionately fewer benefits under this scheme, even though a large number of them are eligible for benefits. This is either due to a lack of information, or in many cases, because agents target wealthier, upper caste families who are more likely to have the means for advance payment for registration and schemes.

4. Lack of official access channels for applications (citizen contention)¹: The smallest unit of governance at which reasonably accessible and formal application channels exist is the Block or the District. That is, if citizens wish to register through legal structures (such as direct interactions with *Emitras*), they must travel to Salumbar, and sometimes to Udaipur. Few structures exist at the village level, and even those that do are inaccessible. For instance, Bamaniya panchayat has installed an *Emitra+*, a machine through which a user can file online applications for various government schemes. In a public gathering on 19 September, 2018, a social audit team discovered that residents were not aware of this, and those who were, did not know how to use the machine. In this case, where official application channels are distant and expensive to access, citizens are more likely to either not avail of any benefits at all, or rely on unofficial agents to file their applications.

5. Delays in disbursement of benefits (citizen contention): The government mandated time period to disburse benefits to an applicant is 1 month. However, according to the government's own "Delay Report", as of August 2018:

- 22.2% of scheme benefits were distributed 4-6 months after the application date
- 6.43% were distributed within 7-9 months
- 4.56% were distributed within 10-12 months
- 1.24% were distributed after more than a year

It is worth mentioning that Salumbar's record with processing schemes is better than the statewide average. Rajasthan state's "Delay Report" reads as follows:

- 29.3% of scheme benefits were distributed 4-6 months after the application date
- 15.2% were distributed within 7-9 months
- 6.3% were distributed within 10-12 months
- 4.3% were distributed after more than a year

Despite Salumbar's better performance, however, there is a need to improve the scheme processing efficiency for applicants from the block.

6. Lack of information about the process (citizen contention): One of the most common complaints among interviewees was a general lack of awareness about the Act and the Board. For instance, according to field data, 777 (91%) of registered construction workers had never heard about the *Sulabh Awas Yojna*, a scheme offering up to Rs.1.5 lakhs for a labourer to build a *pakka* house. Strikingly, in the ST area of Bamaniya panchayat, citizens (particularly women) were not even aware that labour diaries or cards had been made in their names. In Lambi Doongri panchayat, an interviewee alleged that she had paid an agent, Bhagwati Lal Garg, Rs. 2500 for a new registration application in 2014. 4 years later, she was not aware that a diary had

¹ "Citizen contention" refers to an issue that individuals raised at the *jansunwai* and that the social audit team also discovered on a larger scale through its interviews and data analysis.

successfully been made in her name. Without any information about the Act or involvement in the application process, such individuals and communities are particularly vulnerable to the activities of unofficial agents, who falsely claim to be the most efficient resources to file applications.

7. Rejections are arbitrary and reasons are not communicated to applicants (citizen contention): Based on data acquired from the Rajasthan government, applicants can be rejected for *thousands* of reasons, most of which are arbitrary or inconsistent with the Board's own rules.

For instance, according to the government's data, an applicant from Jamboora, Makarsima born in 1969 as per government records, was rejected when he applied in 2014 because "he had turned 60 years old before applying"—but this is inconsistent with the government's own data. In another case from Itali-Khera, a maternity benefit application was rejected on the grounds that the applicant had been registered under the Board for less than a year. However, the Board requires such applicants to have been registered for only 45 days before they can file their paperwork. In other words, in these cases, the Board was processing applications inconsistently with its own rules. Annexure 4 contains a list of such rejected registration and scheme applications.

In addition to incorrect rejections, applicants were often not informed of their application status regularly. Interviews during the social audit process suggested that out of 163 rejected scheme applications, only 42 were aware of the reason that their applications had been rejected. In one case in Bamaniya panchayat, even the son of an agent, Ramesh Kumar Meghwal, was unaware of the reason for the rejection of his application.

8. Applicants' information is incorrectly entered into government databases: Hundreds of cases exist where an applicant's information has been incorrectly entered into the government database. For instance, in one case in Dagar panchayat, an applicant who works as a cook has been successfully registered with a mobile number of "123456789." Conversely, in the case of Bherulal of Dal panchayat, his application was rejected because the government informed him that his (legitimate) mobile number was "invalid." Bherulal visited Udaipur on three separate occasions to rectify this misunderstanding, but each time he was told to return at later date. Such inconsistencies in what is considered valid information allow for arbitrary acceptances and rejections.

9. Inconsistency between government records and beneficiary claims (citizen contention): In 33 (6.7%) of the 499 scheme applications that were accepted, the government records indicated that the scheme funds had been deposited into the beneficiary's bank account, but the beneficiary claimed to have not received anything. In some cases it was the audit team, with its record of government data, that informed beneficiaries about this for the first time.

10. No construction site in Salumbar was registered: Of the government's list of registered construction sites in Udaipur district, none were located in Salumbar. Despite this, the audit team came across several large (over Rs.10 lakh) construction projects in the block. The welfare schemes of the Board cannot successfully reach labourers unless construction sites are duly registered. Attached in Annexure 6 is a list of registered construction sites in Udaipur district as per the government's records.

11. The idea of a "labourer" is understood in a very general sense: Outside the context of the Act and the Board, the term "labourer" or "mazdoor" is understood to include construction workers in addition to agricultural and household labourers. As such, during the interview stage, when the audit team described to residents of several panchayats that only construction workers were eligible under the Act, citizens were concerned that the provisions of the Act were limited. The lack of an understanding of the Act raises concerns among some ineligible citizens that they are being excluded. Moreover, as a result of this unclear understanding of the "construction worker" category, people doing such jobs as "furniture making"—and are actually eligible for benefits—might incorrectly consider themselves to be ineligible.

12. Unofficial agents and corruption (citizen contention): A vast network of agents, claiming to be the easiest and most reliable means to get an application passed, operates in Salumbar block. The field interviews yielded the following information:

- a. A labourer (whether eligible or not) pays an average of Rs.392 to an agent for a new labour card, as opposed to the state mandated fee of Rs.139. In some cases, labourers have paid up to Rs.5000 for this service. In 75.2% of the cases, the applicant allegedly paid a fee of Rs.200 or more to apply for a card.
- b. Among the labourers (whether eligible or not) who paid a bribe to an agent for a new scheme application, the average bribe was Rs.1852, as opposed to the state mandated fee of Rs.32. In general, this might be an upfront payment, or in the case of some schemes (especially the *Shubhshakti Yojna*) takes the form of a cut from the received amount. In one case of an injury benefit in Makarsima panchayat, a beneficiary allegedly paid Rs.35000 out of the received Rs. 2 lakhs to agent Praveen Garg. In total, from the 475 scheme applications that involved a payment over Rs.32 (44.7% of all scheme applications), agents received a total of approximately Rs.8,80,000.

At the *jansunwai*, two residents of Makarsima panchayat accused agent Bhagwati Lal Garg of charging Rs.4000 and Rs.7000 respectively for their registration applications, but never giving them their labour cards when they arrived. They also explained that he warned them against participating in the *jansunwai*.

A resident of Lambi Doongri panchayat accused Bhagwati Lal Garg of “looting [us] without us knowing,” accusing him of charging her Rs.600 for registration and Rs.8000 for a scheme application—neither of which has arrived. Once again, Mr. Garg personally visited her house and threatened her with consequences if she lodged a complaint at the *jansunwai*.

The agents whose names appeared repeatedly during interviews included: Nirbhay Meghwal, Ramesh Kumar Meghwal, Gajendra Singh, Bhagwati Lal Garg, Bhanwar Lal Garg, Bhupesh (*Emitra*), Deepak Rojgar (*Emitra*), Narayan Salvi, Jamaklal Jain Utharda, Suraj Kothari, Suresh Jain, Kalulal Meghwal, Lakshman Lal Meena and Praveen Garg. It is concerning that the work of these agents has become normalized in Salumbar block.

Attached in Annexure 3 are the minutes from the *jansunwai*, which also includes the names of government employees who have allegedly violated the rules of the Board.

Challenges and Learnings

Since the social audit that took place in Salumbar was a pilot, the audit team compiled a list of its learnings during the preparation and implementation process to improve future social audits around the country.

Preparation phase

1. Delayed data sharing by the Labour Department: According to the social audit standards developed by the C&AG, the social audit team (here, Aajeevika Bureau) must receive the relevant data from the implementing agency (here, the Rajasthan BOCW Welfare Board) at least 15 days before the audit to ensure a more thorough implementation.

Aajeevika Bureau first requested the Labour Department for Salumbar block’s registration and scheme data on 28 August, 2018, and upon no response, made additional requests on 4 September and 10 September. Most of the data was received only on 14 September, 2018, albeit with missing information, such as the date of disbursement of funds for each application. Moreover, this data was sent to Aajeevika in different formats and files, making compilation difficult.

The social audit and data analysis teams would have benefited from a more complete and nuanced understanding of the registration and scheme application processes had data been sent in as per the required timeline.

2. Lack of coordination between the Board and District as well as Block level officers: It was only upon the third request from Aajeevika Bureau that the Board issued letters to the District Collector and BDO to inform them about the social audit and the *jansunwai*.

The participation of these district and block officials, especially in the *jansunwai*, was essential to the impact of the audit and to reassure the people that their complaints were being heard and acted upon.

3. Although Aajeevika had requested to view hard copies of BOCW application forms at the BDO on 4 September, 2018, the latter only handed over a handful of forms (after much persuasion) on 21 September, 2018—the last day of the interview stage of the social audit. As a result, the audit team was unable to study the format of the hard copy application form and understand ways in which it could be made simpler for beneficiaries to fill out.

It is important that future social audit teams are aware of these potential delays at the preparation stage.

Implementation phase

1. Beneficiaries not physically present: The audit team discovered that due to seasonal migration or being employed away from their residential villages during the day, the registered beneficiaries were not present at their homes to be interviewed. In this case, the teams either spoke to the beneficiary over the phone or consulted their family members. This learning might influence at what times in the day the audit teams choose to visit homes. If they do consult someone other than the beneficiary, they must identify the person they are speaking to and note this down for the data analysts' records.
2. Agents blackmail beneficiaries: In many cases, especially on the second or third day of interviewing in a panchayat, the agents came to know of the social audit and began threatening and unduly pressurizing beneficiaries not to report cases of corruption. They warned beneficiaries with dire consequences if they attended the *jansunwai* and reported their grievances. As a result, some beneficiaries started denying paying any fees at all, even though there is a government mandated fee for every application. This suggests that their responses were altered by the agents' threats.
3. Digital tool for data collection: Both the data collection and data analysis teams found it useful that interviewee information was recorded digitally. Given the short time frame of this audit and the large volume of data generated, having the results easily available and ready to analyse on a spreadsheet proved to be convenient and effective at understanding large-scale trends. In general, this must be complemented by note taking (to correct data entry errors) and qualitative documentation of individual stories to be presented at the *jansunwai*.

Recommendations

In response to the audit team's interviews and the citizen grievances presented at the *jansunwai*, the BOCW Act and Board must be made more transparent, efficient and accessible. Through policy and implementation improvements, its welfare component can reach its intended beneficiaries with a higher success rate.

1. To provide clear information to citizens about the registration and scheme application processes, the Labour Department must prepare a standardized checklist of documents to be submitted, as well as a standardized timeline for each application type. For some information points, such as date of birth, a successfully registered worker (whose age is now stored in the government's database) should not be required to repeatedly provide proof of this at the time of scheme applications. If registration information stored on the government's systems is legitimate, the applicant should only be required to provide supplementary, scheme-specific documentation.
2. The Labour Department must develop a standardized and comprehensive "reason for rejection" list for the schemes delivered by the Board. Under the current system, the reasons are arbitrary, and an application might be rejected for one of thousands of reasons. With a standardized list, the Department can also effectively communicate its decision to the beneficiary.
3. As discussed in the *jansunwai* and supported by District Collector Bishnu Charan Mallik, it is necessary to regularly and publicly disseminate the names and application information of beneficiaries at the panchayat level. This can take the form of a *gram sabha* every 30 days, where such information is read aloud to residents.
4. In order to register and resolve citizen grievances, the Labour Commissioner must organize regular camps at the block level. Moreover, citizen complaints must be made publicly available online and read aloud at the above mentioned *gram sabhas*.
5. The Labour Department must ensure that registration and scheme applications processes are conveniently available at the panchayat level to prevent citizens from having to travel long distances to engage with these processes. This can involve training a larger number of *Emitras* at the village level, or encouraging the use of the *Emitra+* (along with providing adequate support to citizens to use these machines).
6. Special measures must be put in place to address the systemic imbalances in information and access to application systems in ST areas and among women.
7. The Board must ensure that all unregistered construction sites in Salumbar block are duly registered, and that their cess is promptly collected in a transparent manner.
8. In the case of Salumbar block, a physical verification must take place of all registered beneficiaries once again. This will ensure that only those individuals performing the state-mandated types of construction labour are receiving welfare benefits.
9. The above action must be complemented by a thorough investigation into the network of unofficial agents operating in Salumbar block (many of whom, as mentioned earlier,

coerce individuals into registering and applying for schemes despite them being ineligible). While action against these agents is urgent, of equal importance is facilitating a return of money to the beneficiaries who have had to pay exorbitant bribes.

10. To ensure that social audits of all public welfare schemes continue to take place, an independent Social Audit Unit must be set up for Rajasthan state. This body should consist of government officials and representatives from NGOs, workers unions and trade unions.
11. The Rajasthan BOCW Board must ensure that in place of current one page 'labour card' or 'labour diary' all the Construction Workers registered as Beneficiary are provided the Identity Card as per section 13 of the BOCW Act, 1996 "with enough space for entering the details of the building or other construction work done by him" and must ensure that the required information is entered by the employers as per section 14 of the said act. This Identity Card may be called "**Nirman Mazdoor Pass Book**" (**NMPB**) to distinguish it from other workers. This NMPB should become the basis of disbursement of the benefit and the basis of certifying 90 days work as construction worker during last one year.