

PRECARIOUS LABOUR IN THE MEDIA AND CULTURE INDUSTRY

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This paper discusses the nature of insecure work conditions and uses the framework of precarious labour to best describe working conditions in the Media and Entertainment Industry ('M&EI') in India. The International Labour Organisation ('ILO') in its report on employment relations in the M&EI uses the term 'media and culture Industry' to include industries which meet society's need for information, entertainment, communication, expression, and creativity. The ILO recognises the role of these industries in supporting and promoting diversity, democracy, and the value of cultural heritage. While these industries play a vital role in society, in a paradoxical situation, employment conditions in these industries are marked by unclear contractual arrangements and insecure work conditions.¹ The paper draws from a study conducted between 2021 and 2023 in the M&EI in Hyderabad and Telangana to examine conditions of work from the lens of gender equality, leading to a report submitted to the National Commission for Women. The report was based on interviews conducted with women and men from different categories of the M&EI. 259 women from different categories in the M&EI were interviewed. The interviews were conducted along four parameters of measuring precarious work, which are uncertain and insecure work, little control over conditions of work, minimal state protection, and poorly paid work. The report shows that work in the M&EI met all four parameters of precarious work. The paper discusses how the findings from the report can pave the way to a better framework of law that will secure improved conditions of work in the Industry.

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¹ International Labour Office, Sectoral Activities Department, *Employment Relationships in the Media and Culture Industries: Issues Paper for the Global Dialogue Forum on Employment Relationships in the Media and Culture Sector* (Geneva, 14 and 15 May 2014) (ILO 2014).

I. INTRODUCTION

The M&EI in India is one of the fastest-growing sectors, and according to a press release by the Federation of Indian Chamber of Commerce and Industry ('FICCI'), it has crossed INR 2.3 trillion in 2023.² Notwithstanding being a growing sector, conditions of work are far from satisfactory. The ILO has pointed to a long tradition of insecure work in the M&EI.³ In India, the Standing Committee on Labour observed that workers in the M&EI were not covered under the Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981. It recommended introducing a new category of audio-visual workers under the new codes.⁴ Precarious labour has come to be associated with new forms of work, such as gig work, with an increased presence of women, and introduces a new way of understanding work beyond the organised and unorganised binary. The unsatisfactory work conditions in a highly visible and vital Industry are not adequately captured in the existing understanding of organised and unorganised labour. Labour in India is understood either as organised, i.e. covered by labour legislation and well protected by a range of labour laws, or as unorganised and out of the protection of labour legislation. This binary does not fully explain the nature and conditions of employment in the M&EI.

The use of the term precarious labour is intended to draw attention to some factors which are not covered adequately by the existing terms of organised and unorganised workers. Formal/organised and informal/unorganised have been understood as a binary, with the expectation that there would be a movement from informal/unorganised to formal/organised.⁵ Precarity brings in an added dimension of insecure work. Precarity is permanent, with no path to secure employment. It brings in dimensions of insecurity and safety not only in a physical sense but also in an emotional and psychological sense. The constant pressure

² FICCI, *Indian M&E Sector Crossed INR 2.3 Trillion in 2023, Expected to Reach INR 3.1 Trillion by 2026: FICCI-EY Report* (5 March 2024) <https://www.ficci.in/api/press_release_details/4863> accessed 24 June 2024.

³ International Labour Office, Sectoral Activities Department, *Employment Relationships in the Media and Culture Industries: Issues Paper for the Global Dialogue Forum on Employment Relationships in the Media and Culture Sector* (Geneva, 14 and 15 May 2014) (ILO 2014).

⁴ Standing Committee on Labour, *Safety, Security and Welfare of TV/Broadcasting/Digital Entertainment/Advertisement Industry Workers* (2018-19, HC 16th Lok Sabha, Report No. 44).

⁵ National Commission for Enterprises in the Unorganised Sector (NCEUS), *Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector* (Government of India 2007) para 1.57 <https://dcmsme.gov.in/condition_of_workers_sep_2007.pdf> accessed 7 December 2024; (The Report discusses the nomenclature of organised and unorganised as against the international use of the term formal and informal. The Report observes that they can be used interchangeably and are consistent with the ILO's usage of the terms. The Report at para 1.57 of its Introduction discusses the need to 'level up' the informal sector to be on par with the formal. The Report mentions that this has been the historical experience of the now developed world and that public policies must now be shaped and tuned towards a process of levelling up. Precarious work now assumes that there is no levelling up as the idea of the formal sector has vanished. In the absence of a standard, this binary is not useful).

of looking for work, the unending struggle to make a place in the Industry, coupled with the narrative of individual efforts and talent, forces workers into self-exploitation and self-reliance rather than forging solidarities and addressing structural issues.

Studies on informal work indicate that informal work is not a homogenous category, and each section of work presents a distinct paradigm requiring special attention.⁶ Attempts at flattening these differences by categorising a variety of employments, such as self-employment and home-based workers, as unorganised workers; designing one-size-fits-all kinds of regulation falls short of meeting the requirements of these sections. Disaggregation of informal work, i.e. understanding informal work as manifesting in a variety of forms, is argued to allow for better policy outcomes.⁷ The new category of workers, introduced by the new labour codes, such as audio-visual workers,⁸ who are not lumped together in an umbrella term of unorganised worker⁹ is a welcome move towards recognising the special needs and circumstances of this Industry.

The Industry has never been studied formally. The Report of the Hema Committee on the conditions of work in the Malayalam Film Industry in Kerala also revealed the lack of serious efforts to regulate the Industry.¹⁰ There is no authentic or official information about the number of workers in the M&EI. This was also observed by the Report of the Standing Committee on Labour (Sixteenth Lok Sabha) on Safety, Security, and Welfare of TV/Broadcasting/

⁶ Unorganised Workers Social Security Act 2008, r 2(m) (India); (The term unorganised worker first entered labour legislation through the Unorganised Workers Social Security Act 2008. The term is defined under s 2(m) as “unorganised worker” means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by any of the Acts mentioned in sch II to this Act).

⁷ Martha Alter Chen, ‘The Informal Economy: Definitions, Theories and Policies’ (2012) WIEGO Working Paper 1/2012 <https://www.wiego.org/sites/default/files/publications/files/Chen_WIEGO_WP1.pdf> accessed 24 June 2024, p 11.

⁸ Occupational Safety, Health and Working Conditions Act 2020, r 2(f) (India); (S 2(f) of the Occupational Safety, Health and Working Conditions Act 2020 defines an “audio visual worker” as a person, who is employed, directly or through any contractor, in or in connection with the audio-visual production to work as an artist including actor, musician, singer, anchor, news reader, dancer, dubbing artist or stunt person or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise, and his remuneration with respect to such employment in or in connection with the production of audio-visual does not exceed, where remuneration is by way of monthly wages or where such remuneration is by way of lump sum, in each case, such amount as may be notified by the Central Government).

⁹ Social Security Code 2020, s 2(86) (India); (The Social Security Code 2020 uses the term unorganised worker as a blanket term to cover many sectors. S 2(86) “unorganised worker” means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by the Industrial Disputes Act 1947 or chs III to VII of this Code).

¹⁰ Hema Committee, *Report on the Status of Women in Malayalam Cinema Industry* (Government of India 2024). <https://www.livelaw.in/pdf_upload/hema-committee-report-556457.pdf> accessed 7 December 2024.

Digital Entertainment/Advertisement Industry Workers 2018 ('Report').¹¹ The Report called for a nationwide survey at the earliest to address this gap in knowledge. In the absence of any such data, this paper provides a snapshot of the conditions of work in the M&EI using the Industry in Hyderabad as a case study.

II. PRECARIOUS WORK AND WOMEN: THE PERFECT WORKER-FLEXIBILITY AND CREATIVE LABOUR

This precarious work landscape not only underscores the need for a nuanced understanding of labour in the M&EI but also sets the stage for examining how these conditions uniquely impact women, influencing their roles within the Industry. The emergence of films and later television as a form of entertainment but fulfilling the requirement of being an Industry under labour law¹² causes a disruption in the distinction drawn between entertainment and work, paid and unpaid work, leisure and labour. This binary of entertainment and labour resulted in the M&EI not being perceived as an Industry for many years. Persons working in the M&EI saw themselves as artists (including struggling and budding artists) and not workers. This ambiguity in nomenclature is also seen in the recent legislation in Karnataka on cine workers. While the legislation covers work in the Industry, it is titled the Cine and Cultural Activists (Welfare) Act 2024.¹³ While official records like the Report of the Working Group on National Film Policy, Government of India, Ministry of Information and Broadcasting, May 1980, recognised that the M&EI was an Industry for purposes of labour legislation, this did not translate into a legal recognition until 1981 when a new statute was drafted.¹⁴

Despite the statutory protection, an ambiguity surrounds the status of persons in this Industry. This ambiguity is perhaps best explained in terms of Precarity.

In his seminal book "The Precariat," Guy Standing writes explosively that all of us at any time could enter the 'precariat,' shattering the myth of a divide between formal and informal. He defines the precariat as an emerging class of persons with flexible labour contracts, temporary jobs, casual work with little or

¹¹ Standing Committee on Labour, *Safety, Security and Welfare of TV/Broadcasting/Digital Entertainment/Advertisement Industry Workers* (2018-19, HC 16th Lok Sabha, Report No. 44).

¹² *Bangalore Water Supply and Sewerage Board v. Rajappa* (1978) 2 SCC 213 : AIR 1978 SC 548; (The test for being an industry under the Industrial Disputes Act 1947 was that there should be systematic activity, with the cooperation of employer and employee engaged in an activity producing goods and services fulfilling human needs).

¹³ Karnataka Cine and Cultural Activists (Welfare) Act 2024, Karnataka Act 46 of 2024, published in Karnataka Gazette Extraordinary No 450 Pt IVA (24 September 2024) <[https://dpal.karnataka.gov.in/storage/pdf-files/46of2024\(E\)Cineworkers.pdf](https://dpal.karnataka.gov.in/storage/pdf-files/46of2024(E)Cineworkers.pdf)> accessed 12 December 2024.

¹⁴ The Cine-Workers and Cinema Theatres Workers (Regulation of Employment) Act 1981, Reg 1 (India).

no benefits, self-employed, or home-based workers. These workers pay the price of flexibility for the employer. They take the burden of any downturn in production, subsidising the employer while they do not partake in the profit. Often misclassified as independent contractors or self-employed, they have no fixed hours or days of work and work at minimal pay. Standing points to the diversity of ways in which people enter it. While some are driven into it, some may enter hoping it will lead to more secure work, some choose it instrumentally, like students or pensioners who are able to work for little to no money, and others find the work they were doing increasingly redundant. All persons in the precariat are not situated identically. He also points to the fact that women perform a large amount of precarious work.¹⁵

Greig de Peuter¹⁶ speaks of “cultural,” “media,” and “creative workers” as those who are increasingly being seen as part of a precariat by pushing a narrative of independent workers, not tied to a contract and able to negotiate for a fair return on efforts. This narrative discourages reliance on regulation, formalisation, and any group-based advantage. He speaks of the expectation of the worker to bear all costs that would otherwise have been borne by the employer or the state. Self-reliance and self-exploitation are the new mantras for these workers trying to negotiate a flexible employment scene.

This narrative of a risk-bearing and benefit-bereft individual needs to be complicated by concerns of class and gender. Applying a feminist method to labour law has opened the understanding of work to include other forms of work, workers, and working. The interrogation of distinctions between the public and private spheres, paid and unpaid work, regular and irregular work, or continuous and intermittent work by a feminist method opens up the understanding of work and workers. This conceptual interrogation of work takes rights at the workplace beyond formal equality claims and beyond the traditional confines of labour law. Judy Fudge and Rosemary Owens write that the rise and spread of precarious work is gendered. They also demonstrate through an examination of statutes in various countries that the gendered nature of precarious work poses challenges to legal norms.¹⁷

This paper uses this idea of a creative precariat while discussing the gender dimensions of Precarity. It is informed by work done around gender and work in the creative Industry, particularly by the work done by Bridget Conor, which looks at women as a category that is substantially disadvantaged in the new

¹⁵ Guy Standing, *The Precariat: The New Dangerous Class* (Bloomsbury 2011) 60.

¹⁶ Greig de Peuter, ‘Beyond the Model Worker: Surveying a Creative Precariat’ (2014) 6 *Culture Unbound* 263-284 <<https://cultureunbound.ep.liu.se/article/view/2073>> accessed 7 December 2024.

¹⁷ Fudge, Judy, and Rosemary Owens, *Precarious Work, Women, and the New Economy: The Challenge to Legal Norms* (Hart Publishing 2006).

creative economy.¹⁸ Her work shows that women as a group are faring worse than men, whether in terms of forms of employment, pay, seniority, or decision-making positions. She has also called for data regarding the position of women in the creative and cultural industries with a regional focus.¹⁹

Precarity as a concept began to be used in the developed world to understand the phenomenon of the disappearing “standard employment relationship,” which was developed through legislation and collective bargaining. The “standard employment relationship” is a contract of employment for fixed hours in an office setting with standardised employment conditions like wages, leave, and other benefits. This is what is reflected in most labour legislations. The standard employment relationship promised secure work and decent conditions, protected workers from socially unacceptable practices, and provided a core of social stability as underpinning economic growth.²⁰ Thus, while precarious work was always in existence, its re-emergence in not only developing societies but also developed societies under conditions of globalisation makes it a useful concept to apply to the M&EI.

The various dimensions of Precarity have been conceptualised as

- i) the degree of uncertainty of work,
- ii) less control over work since work is uncertain,
- iii) the degree of protection, whether by law, collective bargaining, or customary practices
- iv) low income²¹

This paper draws from the report submitted to the NCW (‘TFTI Report’) from interviews conducted in the M&EI in Hyderabad between 2021 and 2023.²² The TFTI Report used these dimensions of Precarity to examine working conditions in the M&EI. The M&EI in Hyderabad is organised around craft Unions. 24 craft Unions are registered and operate in the M&EI.²³ Interviews were

¹⁸ Conor, B, Gill, R, Taylor, S & Carrigan, M, ‘Gender and Creative Labour’ (2016) 63(1) The Sociological Review Magazine <<https://journals.sagepub.com/doi/10.1111/1467-954X.12237>> accessed 7 December 2024.

¹⁹ Bridget Conor, *Gender & Creativity: Progress on the Precipice* (UNESCO Special Edition 2021).

²⁰ Gerry Rodgers and Janine Rodgers, *Precarious Jobs in Labour Market Regulation: The Growth of Atypical Employment in Western Europe* (International Institute for Labour Studies; Free University of Brussels 1989).

²¹ *ibid.*

²² *Working Conditions and Applicable Laws to Women in the Telugu Film and Television Industry (TFTI)*, Report submitted to the National Commission for Women (2023).

²³ List of 24 Crafts in the Telugu Film and Television Industry (TFTI) 1. Telugu Film and TV dancers and Dance Directors Union, 2. Telugu Cine and TV Junior Artists Agents Union, 3. Telugu Cine Artists Union, 4. Telugu Movie Dubbing Artists Union, 5. Telugu Cine Writers

conducted with 305 participants, of whom 259 participants were from the 18 crafts in the M&EI in Hyderabad. 48 interviews of various stakeholders were conducted. The rank-and-file labour was more closely studied within the M&EI.

Apart from an analysis of the overall trends of all participants together, craft-wise analysis was made for 6 crafts out of 18. These 6 crafts represent the hierarchies in the M&EI. Cine Artists and Directors, who are the most visible faces of the Industry were grouped together Dubbing Artists and Dancers, who are recognised as artists but remain largely invisible, and those who constitute the bottom rung, i.e. Production Assistants and Junior Artists are rarely given the status of being artists and constitute some of the most vulnerable groups in the Industry. The others categorised as ‘rest’ in the tables below represent the remaining 12 crafts, such as musicians, editors, art directors, writers, and make-up artists.

The following sections will examine the four dimensions of Precarity mentioned above. Section III will discuss the first dimension of Precarity, the uncertainty of work. Section IV will discuss the second dimension of control over work, Section V will discuss the third dimension, degree of protection from law, and Section VI will discuss the fourth dimension—income levels. Section VII will offer concluding remarks.

III. UNCERTAINTY OF WORK

“One of my friends (a fresher) got a chance to act in a movie. He was asked to come to Rajahmundry for the shooting, where he was not provided with any accommodation or payments. Still, he acted in the movie to create an identity in the Industry. The entire scene was deleted from the movie later.”

(Film school student)

Association, 6. Telugu Cine and TV Make-Up Artists and Hair Stylists Union, 7. Telugu Cine and TV Costumes Union, 8. Telugu Motion Pictures and TV Drivers Union, 9. Telugu Cine and TV Productions Mahila Workers Union, 10. Telugu Cine and TV Productions Assistants Union, 11. Telugu Cine and TV Junior Artists Union, 12. Telugu Cine Art Directors Association, 13. Telugu Cine Stunt Directors and Stunt Artists Union, 14. Telugu Film Editors Union, 15. Telugu Cine Still Photographers Association, 16. Telugu Cine and TV Outdoor Unit Technicians Union, 17. Telugu Cine Studio Workers Union, 18. Telugu Film Directors Association, 19. Telugu Cinematographers Association, 20. Telugu Cine Musicians Union, 21. Telugu Cine Audiographers Union, 22. Telugu Cine Production Executives Union, 23. Telugu Cine and TV Outdoor Lightmen Union, 24. Telugu Cine Publicity Artists Union.

One of the hallmarks of precarious work is the ease of entry with no required training, qualifications, or procedure. Ease of entry into an Industry is measured in terms of low entry barriers, such as not having requirements of education, training, or access to capital, and through family, friends, and acquaintances. This section uses data from two criteria, entry and mode of finding work and days of work, to understand uncertainty.

The table below is drawn from the TFTI Report. It shows the modes of entry of women into the M&EI. The responses given by participants indicated that entry into the M&EI was easy. In the interviews conducted, participants recounted stories of walking onto film sets and staying on. Around a third, i.e. 34.4%, entered without family or other contacts or any formal training of educational qualifications. Around 48% came through friends, acquaintances, and family. Unlike the popular perception that it is only in particular crafts, such as actors or musicians, that family plays an important role, this data shows that entry into the M&EI is often mediated by acquaintances. More importantly, it shows that there are no formal modes of entry, through training institutes or schools or formal recruitment across crafts. None of the participants mentioned that they were recruited through any formal channel.

When this is further examined in terms of specific crafts, it can be seen that the overall 34.4% actually represents a mean between 70% and 9%. Among Dubbing Artists, around 70% of them came without any contacts. This is the highest among all participants. A high number of around 50% of Cine Artists, and 51% of Directors came without contacts. In the other crafts, such as dancers, Junior Artists, and Production Assistants, entry was through friends, acquaintances, and neighbours. This shows that it is the bottom rung of the ME&I that shows the presence of a network of acquaintances and friends.

Entry																
	Over All		Artists/Cine Artists		Dancers & Choreographers		Directors		Dubbing Artists		Junior Artists		Production Assistants		Rest	
	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age
Friends, Acquaintances & Neighbours	145	48.5	4	15.4	10	43.5	13	39.4	1	4.5	32	66.7	40	76.9	45	47.4
Through family contacts	51	17.11	9	34.6	6	26.1	3	9.1	5	22.7	8	16.7	7	13.5	13	13.7
Without any contacts	103	34.4	13	50.0	7	30.4	17	51.5	16	72.7	8	16.7	5	9.6	37	38.9
	299		26		23		33		22		48		52		95	

While entry into M&EI was without much difficulty, finding work was the bigger challenge. The TFTI Report found that across sectors, work was found through word of mouth. While traditionally, Trade Unions in the Film Industry worked as facilitators, trainers, and mentors, and informal arrangements between producers and film employee Unions were made to source employment through Unions, this picture is changing. The Junior Artists Union, Production Assistants Union and Dubbing Artists Union continue to perform these traditional roles, but other unions are no longer able to do that.

The TFTI Report showed that practices were slowly changing. Unions were no longer able to negotiate for work, particularly after the order of the Competition Commission of India ('CCI'), holding such practices to be violative of the Competition Act.

In *Vipul A. Shah v. All India Film Employee Confederation*,²⁴ the CCI held the actions of the All India Film Employees Federation and its associated bodies amounted to anti-competitive practices. The Film and Television Producers Guild of India Ltd., the Indian Film and TV Producers Council, and Indian Motion Picture Producers' Association ('IMPPA') operate throughout the country. In addition, there are Film Chambers of Commerce that represent the Industry. Employment relations were regulated by an agreement between the Producers' Guild and Federation of the various crafts in the Industry such as the AIFEF. This agreement was challenged by a producer, Vipul Shah, who moved the CCI alleging that the agreements entered into between AIFEF and IMPPA violated the Competition Act 2002. He claimed that the Memorandum of Understanding ('MOU') between the AIFEF and the IMPPA was anti-competitive, as the action of the AIFEF was an abuse of their dominant position within the relevant market, which in this case was the Bollywood Film Industry. He claimed that the AIFEF had negative agreements that prevented the employment of persons who did not belong to the Federation and indulged in boycotts of producers who employed persons from outside the Federation. He claimed that public interest was affected as the "skill development" of persons who did not belong to the Federation was affected.

The MOU that both parties entered into was a result of a mutual agreement through which work, shift timings, and wages were agreed upon. In addition, the MOU had clauses that prohibited the producer from employing artists from outside Mumbai more than a certain percentage. The AIFEF maintained that these clauses were part of their right to collective bargaining and that Trade Unions did not come within the purview of the CCI. The authority appointed to investigate the matter observed that under the erstwhile Monopolies and Restrictive Trade Practices Act, 1969, Trade Unions were exempt from the application of

²⁴ *Vipul A. Shah v. All India Film Employee Confederation* 2017 SCC OnLine CCI 53.

the Act. Since such a provision was not present in the Competition Act 2002, the Commission had the jurisdiction to entertain the complaint and order cease and desist motions against the AIFEF not to indulge in such anti-competitive activities.

The Commission, however, held that the fixation of wages under the MOU was a legitimate activity of the Union and was not violative of the Competition Act. It held that the provisions not allowing non-Union members from working in the Industry as well as not cooperating with producers who employ such persons amounted to a violation of the Act.

Following this ruling, The TFTI Report found that the role of Unions, especially in Cine Artists/Directors, was greatly reduced. They now depended on word of mouth for finding work, and Unions hardly played any role in finding work. Participants cited this as one of the reasons not to take membership of Unions. Unions were actively discouraged, and Cine Artists/directors were encouraged to directly approach production houses for work.

One Union, however, adapted to this changed scenario with great success. The Dubbing Artists Union is a good model of a successful Union that negotiated this change by balancing out the autonomy of members with some group solidarity. It is a Union with one of the highest rates of membership, and yet the Union is not the only or the dominant source for finding work. The Union tries to secure a minimum amount of work for its members by negotiating for group work while allowing its members to seek work and negotiate terms independently. The Union combines a group-based approach along with an individualistic approach by looking after those who are unable to find work by providing work and a negotiated wage; it allows individuals to charge a higher fee if they can negotiate it individually.

“If Unions collapse, it will lead to those who have the passion not being able to survive but those with money to sustain themselves will be able to continue. Creative arts will become captive to those with positional advantages.” (Union office bearer, interview available on record)

The TFTI Report found that there was no established system of casting houses or open calls for work. Work was negotiated through Unions, or coordinators who had nothing to do with the M&EI but merely supplied labour, often putting them in very vulnerable positions.

Days of Work																
	Over All		Artists/Cine Artists		Dancers & Choreographers		Directors		Dubbing Artists		Junior Artists		Production Assistants		Rest	
	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age
Less than 5 days	27	10.5	4	19.0	4	19.0	2	7.1	1	4.8	7	16.3	2	4.8	7	8.8
Less than 10 days	46	18.0	6	28.6	3	14.3	1	3.6	6	28.6	19	44.2	7	16.7	4	5.0
More than 10 days	73	28.5	4	19.0	4	19.0	4	14.3	3	14.3	14	32.6	28	66.7	16	20.0
Regular Days of Work	110	43.0	7	33.3	10	47.6	21	75.0	11	52.4	3	7.0	5	11.9	53	66.3
	256		21		21		28		21		43		42		80	

Work was very irregular. Less than half of the participants (43%) reported regular work, i.e. employment of more than 10 days in a month. The category of Directors, which included assistant directors, were employed on a monthly basis and were the only persons reporting what resembles a standard employment relationship, or regular hours and days of work. About 75% of those interviewed reported working for more than 10 days a month. Around 44% of Junior Artists reported less than 10 days of work in a month, only 32.6% reported working more than 10 days, and 16.3% reported working less than 5 days a month. These figures are based on the recall of participants, as there are few records of work done. Junior Artists are dependent on shooting schedules. These were the hardest hit when there was no shooting. One of the demands of this section was for more regular work, and they wanted some assurance of work so that they could support their lives and their families.

Inability to find work causes vulnerabilities such as paying for accommodation. Many of them struggle to find accommodation as their income is uncertain. The uncertainty of work creates a vulnerable workforce, in turn creating further vulnerabilities, such as having little control over conditions of work. Since work is organised largely by word of mouth and there are very few professional modes of finding work, there is pressure to be compliant and not raise any questions even on basic things such as a contract of employment or an expectation to be paid or that amenities be provided. These aspects are explored in sections below.

IV. CONTROL OVER WORK

This section examines control over work conditions such as hours of work, pay, regularity, amenities, benefits at work, and the existence of contracts of employment. Basic amenities such as toilets, washrooms, or changing rooms were examined, along with any facilities such as childcare, travel, food, accommodation, and daily allowances.

Work in the M&EI is unique in the sense that it defies the conventional understanding of work as regular, contractual, temporary, or seasonal. We have already established that work is uncertain. There are sporadic days of work and months of unemployment. This aspect is completely missed out when work is measured in terms of regular work with a fixed employer, i.e. the “standard employment relationship.”

The TFTI Report showed that irregular work was the norm, and work was offered to some on a daily wage basis, to others on a lump sum for a fixed set of days, while a few were employed on a monthly basis. Since work was so uncertain to come by, they were vulnerable to accepting work with very poor conditions. These conditions included long workdays, poor amenities at work, delayed payments, and no benefits associated with work. 12-hour workdays or even longer,

were the norm. Junior Artists started their day at 4 a.m. and ended it late at night. As the table below shows, 12 hours was the norm, and more than 12 hours was equally the norm. A Few sections, such as Dubbing Artists, who don't work on sets, were the only ones who worked less than 12 hours.

Hours of Work																
	Over All		Artists/Cine Artists		Dancers & Choreographers		Directors		Dubbing Artists		Junior Artists		Production Assistants		Rest	
	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age
12 Hours	107	40.8	9	50.0	11	52.4	3	10.7	7	33.3	26	54.2	22	42.3	29	39.2
Less than 12 Hours	39	14.9	0	-	1	4.8	5	17.9	14	66.7	1	2.1	0	-	18	24.3
More than 12 Hours	116	44.3	9	50.0	9	42.9	20	71.4	0	-	21	43.8	30	57.7	27	36.5
	262		18		21		28		21		48		52		74	

Women interviewed in the M&EI lamented the non-availability of basic amenities such as toilets at the workplace. Many of them said that to avoid the embarrassment of having to defecate in the open, they would avoid eating food and drinking water while on shoot. This experience was across all categories of persons, from art directors to Production Assistants. Facilities like child care were unheard of. Only main leads had their own vanity vans and toilets. One of the amenities which was universally available was food, although even this was different for different sets of workers. Travel was also available in many cases, though not all.

"Our Industry doesn't provide any amenities; it has an environment which we have to fit into." Cine Artist (interview available on record)

The increase in contingent employment, contractual employment, and disguised employment post- globalisation in all employment sectors has been widely discussed. The phenomenon is also visible in the M&EI.²⁵ Michael Curtin and Kevin Sanson note the changing nature of the media and the impact that globalisation has on labour in the cultural sector. They note that Hollywood, which once had powerful Unions, is increasingly shifting gears to outsourcing work and increasing pressure on Unions to accommodate longer work hours and lower pay, leading to lesser satisfaction for media workers. They also note the increased unpaid work that is expected, whether in terms of additional work or increased time on social media or supplemental work. Sometimes these are explicitly stated in contracts, and at other times they are implicitly expected in terms of judging employee commitment to work.²⁶

This ruling of the CCI discussed above has opened employment opportunities for persons who were not part of the Unions. While this is a good development and allows women's entry into the M&EI without having to obtain membership of Unions, it also contributes to a Precarity as Unions no longer facilitate employment or conditions of work, and women must negotiate the M&EI by themselves. Ease of access is guaranteed to all, but it also means that if removed from work, there is no mechanism to hold producers accountable. Unions play a significant role in providing access to work, negotiating wages, ensuring timely payment of wages, securing social security, and providing some solidarity in cases of disputes. The ease of access to employment comes at the cost of the individual now having to fend for themselves in all these aspects of employment.

²⁵ International Labour Organisation, Tripartite Meeting on the Future of Work and Quality in the Information Society, *Conclusions on the Future of Work and Quality in the Information Society* (Geneva 18-22 October 2004) TMMCGS/2004/6, ¶24.

²⁶ Michael Curtin and Kevin Sanson, *Precarious Creativity: Global Media, Local Labor* (University of California Press 2016).

Union Membership																
	Over All		Character Artists/Cine Artists		Dancers & Choreographers		Directors		Dubbing Artists		Junior Artists		Production Assistants		Rest	
	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age
YES	222	72.8	11	42.3	22	91.7	18	54.5	24	100.0	36	75.0	52	100.0	59	60.2
NO	83	27.2	15	57.7	2	8.3	15	45.5	0	-	12	25.0	0	-	39	39.8
	305		26		24		33		24		48		52		98	

Many of the participants interviewed (79.2%), both those belonging to Unions and those who did not, said that there were no written contracts of employment. This is an aggregate figure because there were sections like Junior Artists who reported no contracts at all. Dancers, who usually work in groups and are paid in a lump sum, reported only 8.3% of the work done through contracts, and 91.7% said that there was no contract, although there were oral agreements for a fixed number of days. Dubbing Artists who work in studios also reported that most of the work they did (91.7%) was done without contracts. Only two sections of Cine Artists and Directors reported contracts. Directors who were the only section reporting what resembles a “standard employment relationship” had contracts. About 54.5% of Directors reported contracts. The other section that had contracts was Cine Artists. Around 65.4% reported no contracts. But across sections such as dancers, Junior Artists and Production Assistants, contracts were unheard of.

Based on the parameters of control over hours of work, amenities, negotiations, availability of work, and the existence of contracts, it can be concluded that this aspect of Precarity is abundantly established.

The next section discusses the degree of protection that is afforded by State and legal regimes.

V. DEGREE OF PROTECTION

This section examines the degree of protection under labour law, constitutional provisions, and collective bargaining through Unions. The presence of institutional arrangements as well as processes for accessing rights at work, such as the existence of a dispute redressal mechanism, are examined.

A. PROTECTION UNDER LABOUR LAW

Protection under labour law in India came following labour mobilisation, both nationally and internationally. In India, the Trade Union Act, 1926, and the Factories Act, 1881, were pre-independence legislation showing labour mobilisation as part of the anti-colonial struggle. In the international sphere, the ILO was an early precursor to the international human rights movements, and India was a member of the ILO. The poor conditions of work in India were an important plank on which the anti-colonial movement was organised. In the Indian Constituent Assembly Debates, labour protection was a subject of paramount importance.²⁷

²⁷ Mohan M, Mani, Babu M, Mathew, Pellissery S and Bharadkar K, ‘Ushering Thin Welfare Regimes at the Cost of Thick Labour Jurisprudence: A Tale of New Labour Codes in India’ (2021) *Revue de Droit Comparé du Travail et de la Sécurité Sociale* 38-49 <<https://doi.org/10.4000/rdctss.2633>> accessed 9 December 2024.

After the Constitution of India came into force, several legislations on labour protection were enacted, which focused on secure conditions of work, social protection in the form of health coverage, old-age pensions, freedoms to organise, and living wages.²⁸

The coverage of these legislations was not uniform. Several sectors were out of the purview of these legislations. The M&EI is one such sector. It was only in 1980 that the need for protection of workers in this Industry was mooted. One of the difficulties was the different sections of workers in this Industry, some of whom identified more as artists and less as workers.

All members of UNESCO adopted a recommendation on the Status of the Artist in 1980.²⁹ This recommendation urged states to develop policies and measures that would improve the lives of artists. The recommendation also asked states to address gender-based discrimination. The working group on Film Policy was constituted in 1980, and following its recommendations, India passed three legislations to protect workers in the M&EI.

The parent legislation was The Cine Workers and Cinema Theatres Workers (Regulation of Employment) Act, 1981 ('Cine Workers Act'), with two other legislations, The Cine Workers Welfare Fund Act, 1981 ('Welfare Fund Act') and the Cine Workers Welfare Cess Act, 1981 ('Cess Act'). The Cess Act levied a cess on every feature film at a rate determined by the Central Government to finance welfare under the Welfare Fund Act.

The Cine Workers Act defines a Cine worker as any person who is employed, directly or through any contractor or other person, in or in connection with the production of a feature film, to work as an artiste (including actor, musician, or dancer) or to do any work, skilled, unskilled, manual, supervisory, technical, artistic, or otherwise.³⁰ This definition moves beyond the understanding of artists and includes all persons working both behind and in front of the camera and those who may not fall within the creative ambit. The ILO recognises the need to move away from this categorisation and now proposes to recognise all persons associated with these industries, and it is heartening to see that Indian law has also moved towards a broader coverage.³¹

²⁸ Employees' State Insurance Act 1948; Minimum Wages Act 1948; Factories Act 1948; Employees Provident Fund and Miscellaneous Provisions Act 1952.

²⁹ General Conference of the United Nations Educational, Scientific and Cultural Organisation, Belgrade, Recommendation Concerning the Status of the Artist (27 October 1980) <<https://unesdoc.unesco.org/ark:/48223/pf0000230191.locale=en>> accessed 9 December 2024.

³⁰ The Cine-Workers and Cinema Theatres Workers (Regulation of Employment) Act 1981, s 2(c) (India).

³¹ International Labour Organisation, Tripartite Meeting on the Future of Work and Quality in the Information Society, *Conclusions on the Future of Work and Quality in the Information Society* (Geneva 18-22 October 2004) TMMCGS/2004/6, ¶24.

Despite an inclusive definition, this Act still makes distinctions between Cine workers and workers in Cinema Theatres.³² The TFTI Report reveals workers carrying out a wide range of activities which may be classified as skilled, unskilled, or semi-skilled. A flat definition in terms of a set wage does not cover all of them. There is no homogeneity among them. Many of them work without contracts and on daily wages. The Cine-workers Act understands work in the Industry as organised around monthly payments or a lump sum amount and the existence of a contract. In fact, it prohibits employment without contracts. It does not include work that is done on a daily wage basis or a piece rate. The Act is silent on terms and conditions of work, such as minimum wages or payment of wages. The coverage under this law is also not wide, and it has identified a small set of workers as those who earn below Rs. 1600/- per month, or in case of a lump sum, below Rs. 15,000/-.³³

These definitions of a worker as employed on a monthly basis, earning less than the prescribed amount, or on a contract leave out a large section; in fact, the Report on the M&EI in Hyderabad suggests there would be virtually no worker who would fall within this definition. The wage levels recorded in the Report show that at a minimum, workers make Rs. 500 as a daily wage, which will amount to 15,000 per month if all days are accounted for. The Rs. 1600 per month is an outdated and redundant figure. In any case, the assumption of a worker receiving a monthly wage is not in line with how the Industry runs today. Most persons, including actors, are daily wage earners.

The legislation was notified via notification No. G.S.R. 676(E), dated 21 September 1984, and Rules to bring the Act into force were also notified. The central government has delegated all powers in relation to the Act to the state governments. This was brought to the notice of the Standing Committee on Labour that the central government has delegated all powers except rule-making powers to the state governments vide notification number SO 3455 dated 4 November 1988.³⁴

³² Payment of Gratuity Act 1972, s 25 (India); (The Act does not define a Cine Theatre worker but provides for benefits such as Gratuity to them by s 25. The provisions of the Payment of Gratuity Act 1972, as in force for the time being, shall apply to or in relation to, every worker employed in a cinema theatre in which five or more workers are employed or were employed on any day of the preceding twelve months, as they apply to, or in relation to, employees within the meaning of that Act. No such provision is made for Cine Workers).

³³ The Cine-Workers and Cinema Theatres Workers (Regulation of Employment) Act 1981, s 2(c) (India).

³⁴ Standing Committee on Labour, *Safety, Security and Welfare of TV/Broadcasting/Digital Entertainment/Advertisement Industry Workers* (2018-19, HC 16th Lok Sabha, Report No. 44, p 15).

B. CONSTITUTIONAL PROTECTION

The fundamental values of the Constitution of India, such as dignity and equality, are relevant to the field of labour regulation. Protecting labour is an important part of the directive principles of state policy as well as fundamental rights.³⁵ The right to dignity and equality, freedom, and social protection are important values underlying labour law in India.³⁶

In *Charu Khurana v. Union of India*, the Supreme Court had an opportunity to examine questions of dignity and discrimination in the Film Industry.³⁷ The petitioner was a trained make-up artist who applied for membership in the Make-up and Hair Stylist Association ('MHSA') in Maharashtra. Her application for membership to the Make-up Artist Association was denied, and her application for a HairStylist card was accepted. The MHSA stated on record that a Make-up Artist card could only be issued to men, as issuing cards to women would render men unemployed. The Federation of Western India Cine Employees ('FWICE') responded to this assertion of the Association by calling out the gender-based discrimination that was being practiced by the MHSA. Despite this explicit demand by the FWICE to issue her a card, the MHSA persisted with its denial of membership. The petitioner also claimed that she was slapped with a fine for working without a card from the MHSA, leading to not only harassment but also deprivation of livelihood. The MHSA claimed that this was not discrimination based on gender and also claimed that the MHSA was not a State under Article 12, and hence, the court had no jurisdiction to entertain the matter.

The Court observed that despite the formal removal of institutionalised discrimination, the mindset and attitudes towards women have not changed. The Court also observed the prevalence of gender inequality in M&EI. The Court quashed the byelaws of the MHSA and directed the MHSA to issue membership to the petitioners.

The decision by the Court reinforces the applicability of constitutional values to the workplace. While the constitutional values are clear, they need more specific transference to the workplace through state regulation. In the absence of

³⁵ Constitution of India 1950, Art 38; Constitution of India 1950, Art 39; (for example, set out the constitutional commitment to securing a social order in which justice, social, economic and political will inform institutions of the State. This is followed by the directive to State to secure to all citizens, men and women, right to livelihood, and among other things, equal pay for equal work).

³⁶ (For a more detailed discussion see Sony Pellisery, *Social Policy in India: One Hundred Years of the (Stifled) Social Question* and Ravi Ahuja, *Minoritarian Labour Welfare in India: The Case of the Employees' State Insurance Act of 1948* in Lutz Leisering eds), *One Hundred Years of Social Protection: The Changing Social Question in Brazil, India, China, and South Africa* (Palgrave Macmillan 2021).

³⁷ *Charu Khurana v. Union of India* (2015) 1 SCC 192 : AIR 2015 SC 839.

legislative measures, State regulation, and active supervision by state agencies, the realisation of constitutional values would remain an aspiration.

This case also points out the deficiencies of a reliance on Trade Unions to substitute for regulation by the State. In the absence of a clear framework on law which recognises their role, trade unionism in India works in fits and bursts, at times bordering on the illegal and at times not being effective enough.

The provisions of the Trade Union Act, 1926 do not have a rights-based approach. The Act does not explicitly recognise a right to organise, nor does it indicate a clear right of Trade Unions to negotiate.³⁸ It was a rudimentary pre-constitutional law to offer protection to Unions against criminal offences such as conspiracy to commit offences. While the rest of the world has seen a growth and evolution of trade union law, India has not seen a major overhaul of the act since then. The law remains rudimentary, as the role of Trade Unions in India has not been fully appreciated even by the Courts. The Constitution of India recognises the right to form associations, unions, or cooperative societies under Art. 19(1)(c)³⁹. However, this right has been held not to include the right to collective bargaining. Collective bargaining was held to be a concomitant right which could not be recognised even if it meant that it was a right that was required to be recognised to give effect to the underlying object of the right.⁴⁰ Without the right to negotiate or collective bargaining, the right to form unions is rendered superfluous.

C. UNIONISATION AND COLLECTIVE BARGAINING

Four years after the CCI ruling discussed in the previous section, the TFTI Report found that Union membership was strong in the participant group, although it varied according to the crafts. The table below depicts Union membership in the various crafts of the M&EI. 72.8% of the participants reported belonging to a Union. The highest rate of unionisation (100%) was in Production Assistants and Dubbing Artists, followed by Dancers (91.7%) and Junior Artists (75%). Among the more poorly unionised crafts were Directors (54.5) and Cine Artists (42.3).

³⁸ Trade Union Act 1926, s 4 (India); (Trade Union Act 1926, s 4 only gives the mode of registration. According to it, any seven or more members of a Trade Union may apply for a registration).

³⁹ Constitution of India, Art. 19(1)(c)

⁴⁰ *All-India Bank Employees' Assn v. National Industrial Tribunal* 1961 SCC OnLine SC 5 ¶22; (A constitutional bench in *All-India Bank Employees' Assn v. National Industrial Tribunal* reported as 1961 SCC OnLine SC 5 ¶22 held that while the right to form unions was protected under the constitution, "even a very liberal interpretation of sub-cl (c) of cl (i) of art 19 cannot lead to the conclusion that the trade unions have a guaranteed right to an effective collective bargaining.")

Union Membership																
	Over All		Character Artists/Cine Artists		Dancers & Choreographers		Directors		Dubbing Artists		Junior Artists		Production Assistants		Rest	
	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age
YES	222	72.8	11	42.3	22	91.7	18	54.5	24	100.0	36	75.0	52	100.0	59	60.2
NO	83	27.2	15	57.7	2	8.3	15	45.5	0	-	12	25.0	0	-	39	39.8
	305		26		24		33		24		48		52		98	

The discrepancies in unionisation can be explained in many ways. The first being finding work for members. The Unions of the crafts that were most unionised found work for their members. In dancers and choreographers, work is only available through Unions, and they are strong.

Another reason for low membership is the high membership fee in addition to other requirements. The TFTI Report found that there were unions which charged a steep fee, like the Dancers Union; other Unions, like the Directors Union, had requirements such as directing a set of films before being considered for membership. Similarly, the Cine Artists Union prescribes a steep fee and requires completion of five films before membership is offered. The respondents observed that the membership fee has been increasing with time and has increased from Rs. 300 to 4 lakhs.

Membership Fees		
Row Labels	Min	Max
Character Artists/Cine Artists	150	1,50,000
Dancers & Choreographers	-	5,25,000
Directors	3,000	15,000
Dubbing Artists	1,000	1,00,000
Junior Artists	-	2,00,000

Union Benefits																
	Over All		Character Artists/Cine Artists		Dancers & Choreographers		Directors		Dubbing Artists		Junior Artists		Production Assistants		Rest	
	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age
Health Insurance	57	23.4	5	26.3	10	25.6	4	14.8	7	36.8	6	20.0	7	14.3	18	29.5
Housing	15	6.1	0	-	9	23.1	3	11.1	2	10.5	0	-	0	-	1	1.6
Workshop/ Training	20	8.2	0	-	8	20.5	4	14.8	1	5.3	0	-	0	-	7	11.5
Compensation against any casualty	11	4.5	0	-	3	7.7	1	3.7	1	5.3	0	-	3	6.1	3	4.9
Any other	39	16.0	2	10.5	5	12.8	2	7.4	1	5.3	0	-	27	55.1	2	3.3
None	102	41.8	12	63.2	4	10.3	13	48.1	7	36.8	24	80.0	12	24.5	30	49.2
	244		19		39		27		19		30		49		61	

The Unions justified the high rate of membership fee as necessary to provide for insurance, health insurance, loans to members, death benefits, accident compensation, and some Unions provide land for housing. During the COVID-19 outbreak, Unions could help members access health services as well as ration and groceries.

The table above shows that only 59.2% of the participants received any benefits from the State Government, such as Health Insurance or Housing, with 41.8% stating that they received no benefit. There appears to be a correlation between Union membership and benefits such as insurance, compensation, and housing, even if the coverage is uneven and not universal. While unionising has a correlation to benefits, it is not universal within the Union. In highly unionised workers like Production Assistants, not all members received benefits. Only around 55% received some benefits.

The other important role for the Unions was to act as a dispute redressal mechanism. In other industries, either the conciliation officer under The Industrial Disputes Act, 1947, or the authorities under various statutes like The Factories Act, 1948, The Minimum Wages Act, 1948, The Gratuity Act, 1972, or The Employees Compensation Act, 1923, would be approached for disputes on issues of working conditions, pay, and other benefits. In the M&EI, the Union is the only authority that exists. The Union addresses issues of non-payment of wages, working conditions, and sexual harassment. Unions were expected to address complaints of sexual harassment by constituting internal committees, as there is no Industry-level forum where the committee can be located.

Dispute Redressal																
	Over All		Character Artists/ Cine Artists		Dancers & Choreographers		Directors		Dubbing Artists		Junior Artists		Production Assistants		Rest	
	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age
None	55	18.3	13	50.0	1	4.2	7	21.2	3	14.3	11	23.4	2	3.8	18	18.6
Unions	174	58.0	6	23.1	22	91.7	8	24.2	17	81.0	35	74.5	50	96.2	36	37.1
Production House/ Manager	71	23.7	7	26.9	1	4.2	18	54.5	1	4.8	1	2.1	0	-	43	44.3
	300		26		24		33		21		47		52		97	

Most of the participants (58%) said that Unions were used to settle disputes, including non-payment of wages. Among dancers, Dubbing Artists, and Production Assistants, this figure was higher at 91.7%, 81%, and 96.2% reporting resolving issues through Unions. While a significant number said there were no arrangements for dispute redressal, those crafts which had a low Unionisation rate, such as Cine Artists could rely on production houses or reported having no redressal mechanism.

The problem of non-payment or underpayment in the Industry is rampant. The working group on Film Policy in 1980 itself noted these practices of not paying or underpaying Cine workers.⁴¹ It suggested that a Chief Inspector be appointed to ensure that all wages were settled before a film could be released for certification.

In the absence of contracts and a dispute redressal mechanism, Unions are the only way to recover payments due. Those without Union membership often must forego payments.

“We have forgotten about those payments as there is no way to collect them.” (Cine musician after 20 years of experience).

Several participants mentioned that they gave up on dues owed to them as they did not know how to pursue the matter. The general perception is that a demand for payment would result in unemployment. One participant spoke of lakhs of rupees that were due to her, which she could not recover. One musician spoke of the small amounts of money being paid to singers and said that even that needed to be insisted upon. She makes an interesting point of dignity rather than economic gain. When an artist is called and given work, it is a matter of respect that she be paid. This sense of not exploiting another is an ethical question and is tied to questions of self-respect rather than compensation alone.

The labour department or courts are not accessed by workers in the M&EI. All disputes, whether they are related to payments, amenities, or travel, including complaints of sexual harassment, are taken to the Unions or occasionally the production house.

Despite many insufficiencies regarding Unions, they remain the only viable mechanism to stand for the workers.

The next section examines the last parameter, i.e. low levels of wages.

⁴¹ *Report of the Working Group on National Film Policy* (Government of India, Ministry of Information and Broadcasting May 1980).

VI. LOW INCOMES

The fourth section examines wage levels and income insecurity as well as access to state benefits as part of understanding Precarity.

Remuneration in the M&EI follows three patterns: through contracts, an MOU, and oral agreements. Contracts are entered into between the producer and the individual in some cases, but they are not widely prevalent. Section 17(b) of the Copyright Act, 1957, provides that unless there is an agreement to the contrary, the person who has financed the work will be the owner of copyright.⁴² The second pattern is through the MOU, which is an agreement that is signed between the federation of employers and the federation of employees in the M&EI. This is the dominant mode of payment. The third pattern is direct agreements, which are oral.

Many participants in filmmaking, such as the scriptwriter, lyric writer, and Director, do not own any copyright over their work unless they have an agreement to that effect. The copyright law deems those who have financed the production as the owners of the copyright.

According to the data collected on the M&EI in Hyderabad, wage rates ranged from Rs. 300 per day to a contract amount of Rs. 3,50,000. The period of the contract varied, and it was an agreement to work on the project for however long the project took. Many workers, such as Junior Artists and Production Assistants, reported a daily wage of Rs. 500 and Rs. 700 respectively.

Production Assistants reported a wage that ranged from Rs. 700 to 1000/- per day. Women were paid less, and unregistered workers were paid less. The MOU mentions only Rs. 440/-, which means that this is the wage negotiated by the Union. Junior Artists reported a daily wage of Rs. 500/-, and if they were engaged on a contract for a film, they could make up to Rs. 50,000/-. Similarly,

⁴² Copyright Act 1957, s 17 (India); First owner of copyright — Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein:

Provided that —

- (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work; and
- (b) subject to the provisions of cl (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein. (Mark as RI1)

Dubbing Artists worked for some of the lowest daily wages in the M&EI, at Rs. 300/-, while some of them could negotiate fixed contracts up to Rs. 2,00,000/-. Cine Artists and Directors were also paid at either a daily wage or a fixed contract amount. They could claim a daily wage of Rs. 4000/-.

The TFTI Report of the M&EI suggests that there is no other way in which the erratic and uncertain wages are compensated, either through health care support or pension or compensation for workplace injuries. These have been basic social protection mechanisms for other workers, which are notoriously absent in the M&EI.

Access to state benefits:

Govt Scheme Benefits																
	Over All		Character Artists/ Cine Artists		Dancers & Choreographers		Directors		Dubbing Artists		Junior Artists		Production Assistants		Rest	
	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age	Count	%age
Window Pension	3	1.8	0	-	0	-	0	-	1	12.5	1	3.1	1	2.6	0	-
Health Insurance	4	2.4	0	-	2	16.7	0	-	0	-	0	-	0	-	2	5.4
E Shram Scheme	31	18.6	1	5.3	0	-	1	4.8	0	-	0	-	27	71.1	2	5.4
Any Other	3	1.8	0	-	0	-	3	14.3	0	-	0	-	0	-	0	-
Housing	1	0.6	0	-	0	-	0	-	1	12.5	0	-	0	-	0	-
Multiple	29	17.4	3	15.8	5	41.7	3	14.3	1	12.5	11	34.4	2	5.3	4	10.8
None	96	57.5	15	78.9	5	41.7	14	66.7	5	62.5	20	62.5	8	21.1	29	78.4
	167		19		12		21		8		32		38		37	

As the above table shows, the M&EI does not participate in any employee benefit schemes such as the Provident Fund, Employees State Insurance or Gratuity, or Employees Compensation Act. The attempt by the M&EI is to portray workers in the M&EI as unorganised sector workers. Unlike Industries such as the Construction Industry, where Boards under the Building and Other Construction Workers Act, 1996, are in place or welfare boards for headload workers such as the Kerala Headload Workers Act, 1978, are in place, there are no welfare boards at the central level or at the State Level for the M&EI. The proposed Cine Workers Welfare Fund Act was a non-starter, as the Act was never brought into force for over 40 years, as discussed above. As the table above shows, more than half of the participants did not receive any government benefit. The Telangana Government has many schemes for the poor, such as widow pension scheme, general health insurance, and low-cost housing. Only 18.6% of the participants reported registering under the E-Shram Scheme, a majority of whom were Production Assistants (71.1%).⁴³ and dancers were covered under general health insurance schemes with private insurance companies.⁴⁴ A majority of Cine Actors (78.9%), Directors (66.7%) and Dubbing Artists (62.5%) did not receive any benefit.

The low levels of income are compounded by the fact that there is no form of social protection, days of work are insecure, and workers' lack of visibility.

VII. CONCLUSION

"I am a mother of two and am very keen to sing but find it difficult to arrange childcare at the drop of the hat. While the music director must book the studio at least one day before, the singer does not get any notice. There should be at least a 48-hours or at least 24-hour notice policy for singers. Studios are not available unless you book in advance, but singers are not even given minimum notice and are expected to report in under an hour. A minimum concern should be there."

(singer, aged 37 with 15 years of experience)

The TFTI Report shows that on all four parameters of measuring precarious work, employment in the M&EI was precarious for all sections. There was uncertain, precarious work, no clear terms of employment or obligations of employers, and very little control over work by participants. Their status was not

⁴³ Government of India, Ministry of Labour and Employment, National Database of Unorganised Workers (NDUW) <<https://eshram.gov.in/e-shram-portal>> accessed 10 December 2024; (It is the first ever National Database of Unorganised Workers including construction workers, migrant workers and others, launched in 2021).

⁴⁴ (Respondents were asked if they were covered under insurance with private companies or were under government schemes).

clear, and contracts were a distant dream. Even where there were contracts, there was no mechanism of enforcement. Basic conditions of work were poor, with long work hours and a lack of basic amenities.

Trade Unions operated in the Industry and offered a modicum of support but were not able to control the availability or quality of work. They largely operate to regulate workers on behalf of the employers rather than being able to negotiate any terms of employment. The ruling by the CCI has further weakened their role.

Income levels for most of the participants were difficult to gauge given the uncertain availability of work. While the minimum wage notified by the government was less than the wage decided by the MOU, in the absence of any mechanism to fix wages for this sector, these wages were unilaterally declared rather than negotiated. Further, several participants reported non-receipt of wages. This was across the board and irrespective of skill sets and economic vulnerability.

The responses recorded in the TFTI Report showed that the perfect worker, according to the Industry, was the precarious worker—one who is easily replaceable, who is willing to work for free, does not enforce any contractual obligations, including working hours or wages, and who remains loyal to the Industry by refusing to call out even the worst forms of harassment. This perception can only be dismantled by clear enunciation of workplace rights as constitutional rights that are non-negotiable.

The new Codes have taken a small step towards recognising the special situation of this sector. The term ‘audio-visual worker,’ which figures in the new labour codes, while an important step in recognising the distinctiveness of this work, does little to move beyond the “standard employment relationship,” which presumes regular work, hours, and pay. The findings from the TFTI Report show that this is not the way the Industry functions. The proposed social security boards for this sector will be able to address only one aspect of the precariousness, i.e. social security, leaving out terms and conditions of employment.

Some measures that have recently surfaced have been the Karnataka Cine and Cultural Activists (Welfare) Bill, 2024, passed in July 2024 to provide social security to Cine and Cultural workers in the state.⁴⁵ The bill proposes a 1–2% cess on movie tickets and OTT subscriptions to fund a welfare board and a fund for financing schemes. At the International level, SAG-AFTRA is the Screen Actors Guild and the American Federation of Television and Radio Artists. It has spearheaded many reforms in wages, working conditions, health, and other benefits. Its website contains resources both in terms of contracts and agents and managers, casting professionals, and other professional help.

⁴⁵ *ibid* 13.

One of the major findings from the TFTI Report of the M&EI in Hyderabad that could be taken on board to improve conditions of work would be to foster social dialogue. Trade Unions exist, and so do employer organisations. Social dialogue, rather than the MOU that is currently in place, between the different interested parties in the Industry, M&EI is one way to move ahead for the objectives of the codes to be successful. The findings from the TFTI Report also show the need to move beyond the standard employment contract, which needs to be rewritten for those in atypical, “non-standard employment relationships.”