

# NATIONAL CAMPAIGN COMMITTEE

## For Central Legislation on Construction Labour

Justice V.R. Krishna Iyer  
Founder Chairperson  
Correspondence Address:

**R. Venkataramani**  
Sr. Advocate- Supreme Court  
Convener Coordinator

**Geetha R.**  
South Regional  
Ph: 91-11-27013523, 27022243

**S. Bhatnagar**  
Coordinator

B-19, Subhavna Niketan  
Pitampura, Delhi-110034

Email: [ncccl2010@gmail.com](mailto:ncccl2010@gmail.com)

[www.nirmana.org](http://www.nirmana.org)

Mobile: 9810810365

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To  
The Petition Committee  
The Council of States (Rajya Sabha)  
Parliament House  
New Delhi

This NCC-CL petition on behalf of over ten crore construction workers working in 36 States and UTs of India as well as other unorganized sector workers is to remind you with deep gratitude of an earlier Parliamentary Petition Committee report which recommended that construction workers' rights and social security entitlements be enacted in law.

We reproduce the following extracts parts from the Report of the 12<sup>th</sup> Petition Committee of the Lok Sabha, presented on 25<sup>th</sup> July, 1989 shortly before a Government Bill on the construction sector was to be voted on:-

“The proposed legislation should not only be comprehensive enough to cover the entire gamut of the problems and rights of the constructions workers but at the same time it should be ensured that it is brought on the statute book without any avoidable delay... There can be no two opinions about the scope and intent of the proposed [NCC-CL] legislation... It is for the Government to ensure that the legislation which is finally enacted encompasses all the above features [tripartite CLBs, etc.] to the extent practicable. **The Committee, therefore, recommends that the Bill pending in Rajya Sabha be withdrawn and a fresh comprehensive Bill be introduced so as to cater to the long-felt demands of a hitherto neglected segment of the working class.**”

The Report added that :-

“since [NCC-CL] has done a good deal of pioneering work in this area and formulated certain proposals after in-depth study of the problems... it would have been appropriate if [NCC-CL] had also been invited by the Ministry for consultations and representatives of [NCC-CL] had also been invited by the Ministry for consultations and discussions on the proposed legislation... Even now the representatives of [NCC-CL], which is headed by an eminent person like Justice Krishna Iyer, may be invited for an exchange of views on the scope and objects of the Bill and how these can be best attained.”

SHEWETH

1) After a long and sustained campaign for over eleven years from 1985 to 1996 under the Chairpersonship of the former judge of the Supreme Court, Justice V.R. Krishna Iyer, the following twin legislations were enacted by the Parliament in 1996 i.e. twenty two years back which together forms a comprehensive piece of legislation consisting of the provisions of working conditions, safety and social security:-

1. The Building and Other Construction Workers (Regulation of Employment And Conditions of Service) Act, 1996
2. The Building and Other Construction Workers' Welfare Cess Act, 1996.

2) that implementation of these two legislations was slow and remained confined to only six States till ten years after the enactment of these two Acts, impelling the NCC-CL decided to move the Supreme Court of India to seek directions to the Central and State Governments to implement the Acts in their real spirit.

3) that the interim orders of the Supreme Court, in the first six years of hearing of the PIL, i.e. till February 2012, **resulted** in the notification of State/UT level Rules of the BOCW Act, 1996, formation of Tripartite Boards, Registration of Construction Establishments and Registration of Construction Workers as beneficiaries, Cess collection and disbursement of various benefits such as old age pension, loans and grants for construction/renovation of house, group insurance, assistance for the education of children, reimbursement of medical expenses, payment of maternity benefits etc **in another thirty States/UTs.**

4) that by June, 2017, according to the affidavits filed by the State and UT Governments, out of the earlier estimate of 7.43 crore construction workers in the country, 2.78 crore construction workers were registered i.e. about 37%, Rs. 37,483 crore were collected as cess and Rs. 9.49 crore were spent on administrative and welfare expenses,

5) that the state-wise details of the above mentioned registration, cess collection and expenses are enclosed in Annexure 1.

6) that thanks to the Supreme Court's sustained 12-year long monitoring of the functioning of 36 tripartite BOCW Boards, the Action Plan recommended by the Amicus Curiae, suggestions submitted by NALSA, Auditing by the CAG etc. the **infrastructure of most of these 36 tripartite boards has developed substantially**, although the full details are yet to be made available.

7) that in the judgment of the Supreme Court delivered on 19<sup>th</sup> March 2018 the following four specific orders were issued, implying action by the State/UT governments/tripartite Boards and the Central Government:

- (1) to the Ministry of Labour & Employment, the State Government and the UTs to strengthen the Registration Machinery both for registration of construction establishments and registration of construction workers.
- (2) to the Ministry of Labour & Employment, the State Government and the UTs to establish and strengthen the Machinery for the collection of cess.
- (3) to the Ministry of Labour & Employment to develop one composite Model Scheme, for all the States' & UTs' Welfare Boards.
- (4) to develop Social Audit Framework for the BOCW Boards on the basis of Social Audit Framework developed for the MNREGA by the task force under CAG guidance.

8) that the Supreme Court gave over six months to the Ministry of Labour to develop an Action Plan, Model Welfare Scheme and Social Audit Framework before closing the hearing on 4<sup>th</sup> October 2018.

9) that the Union Labour Secretary on 30<sup>th</sup> Oct. 2018 issued the enclosed letter (see Annexure II) to the Chief Secretaries of all the States & UTs to ensure implementation of the Action Plan, Model Welfare Scheme and Supreme Court Judgment.

10) that contradicting the above recommendations the Ministry of Labour proposes to repeal the BOCW Act, 1996, as implied in the third version of the Labour Code on Social Security and Welfare 2018 that it has circulated. (see Annexure III).

11) NCC-CL, several organisations representing construction workers and other unorganised sector workers have signed this petition to oppose the third version of the draft **Labour Code on Social Security and Welfare, 2018** and the draft **Labour Code IV on Occupational Safety, Health and Working Conditions, 2018,** both. Acceptance of these two Codes implies repealing the BOCW Acts and 21 other labour laws which have been achieved with very long struggle of the workers in India. Repealing of the BOCW Acts will be lead to the closing of the BOCW Boards and several other unorganized sector workers Boards all over the country.

12) NCC-CL, organisations of unorganized sector workers and the unorganized sector workers themselves are strongly opposed to the third version of the draft Labour Code on Social Security and Welfare 2018 because of the following reasons:

a) Because of the provision of only one Welfare Board at State Level and a National Board for all categories of unorganized workers, the BOCW Welfare Boards and Welfare Boards for various sections of unorganized sector workers will be **dissolved** leading to suffering for lakhs of registered workers, pensioners and newly registered workers,

b) Because even the one Board at State and National level will be **only advisory,**

c) Because under the draft Code, registration will be done by the District Administration and not by the Welfare Board or Labour Department.

d) Because even the proposed registration will be retrograde as it will include child labour from the age of 14 years, besides requiring proof of trade, proof of APL-BPL (above and below poverty line) etc and it will also exclude Trade Unions.

e) Because in the absence of any implementation machinery it will be implemented by the “Agencies” leading to total privatization of benefits delivery.

f) Because this draft code gives the Central Government the power to exempt any body from payment of Cess, not provided under the BOCW Cess Act 1996.

g) Because on one side the draft Labour Code on Social Security has excluded the agriculture workers and domestic workers from getting any social protection and on the other side many welfare funds have been closed by administrative Orders without the repealing of those Acts in the Parliament.

13) Therefore NCC-CL, the organisations of Unorganised Sector Workers and the unorganised sector workers themselves request the Petition Committee to immediately recommend the withdrawal of the two proposed Codes and **Save the BOCW Acts**, BOCW Welfare Boards, and all the other Unorganised Sector Workers Welfare Boards in the country.

14) that finally the NCC-CL request that our petition carrying the signatures of thousands of construction workers is sympathetically considered and appropriate action taken. We would like to remind you that we construction workers and our families form an important segment of voters in each and every constituency of the Lok Sabha, especially in the urban and semi-urban areas.

**And accordingly your petitioners pray that in the above stated situation, it is necessary for the Petition Committee to recommend to the Parliament as prayed above.**

NCC-CL will be grateful if an opportunity is afforded to some of our representatives to appear before you and make an oral submission as well.

NCC-CL on behalf of over ten crore construction workers, thank you, in the hope that our petition receives the utmost consideration at your hands.

Name of Petitioner	Address	Signature/Thumb Imp.
Subhash Bhatnagar Coordinator NCC-CL	B-19, Subhavana Niketan, Pitampura, Delhi-110034	

and several others as per the enclosed files.

Counter Signature of Member of Rajya Sabha, Presenting the Petition

*List of enclosed papers :*

- (1) Annexure I – State-wise positions of Number of Workers Registered, Cess Collected and Amount Spent under the BOCW Acts,1996
- (2) Annexure II - Letter of Union Labour Secretary to all Chief Secretaries of State/UTs dated 30th Oct. 2018
- (3) Annexure III - Record of discussions in the Tripartite Meeting held on 27.11.2018 on SS Code