

## **Critique of Four Labour Codes**

### **Social Security Code:**

- The Union Govt has the major power to make decisions on Social security schemes on Life and Disability cover, Health and Maternity benefits, old age protection and education, etc, while State Govts can decide regarding provident fund, employment injury benefit, housing, Education of children, Skill Upgradation, Funeral expenses, and Old Age Homes. (Chapter IX, Sec 109)
- The SS Code and Rules envisage Central website for Registration of workers and this implies re-registration of registered workers while Pensioners cannot since their age is above 60y. The difficulties and deprivation are explicit.
- In the Social Security Code there is no involvement of Trade Union in registration renewals and getting benefits from Welfare Boards.
- There is no compulsory registration of workers and employers in the Welfare Boards. sec.106,113, (R )47(11),50
- Sectoral Welfare Boards for major sectors such as Agricultural, Fisheries, Plantation, Domestic, Auto -Taxi, Leather, Weavers, Handloom, Powerloom, Salt, Beedi, Film, Journalists etc are not included in the Social Security Code. (sec.109,114) (R) 109(1),114(1)
- There is no inclusion of Govt contribution of 3 % of Budget and no system of levy for all the sectoral Boards.
- There should be no privatization of benefits and the benefits must include all the aspect of Social Security Benefits such as Medical - Sickness - Unemployment – Accidental Death – Disability – Occupational disease - Natural Death – Maternity – Children Education – Housing – Child care etc.(sec.112)
- Exemptions can be given by Union Govt for Construction Cess to be paid by employers. (sec.102) (R) 104
- Sec 10 (b) in Employees compensation Act has been left out. To get compensation for accident especially for Migrant Workers, this section

enables Suo Moto notice to employers for deposit of compensation and sending the money to Source State LabourDept for disbursal to family. See OHS code (Sec.10.11.12), also refer SS code.sec 75

**On OSH Code :**

- Agricultural- Domestic – Home based workers have been excluded in OSH code.
- The meaning and implementation mechanism for Occupational Health of unorganized Workers does not exist in OSH Code. As per ILO Convention 161 and WHO guidelines, Occupational Health Principles, Structure and functions, namely Identification – Treatment – Rehabilitation – Compensation for Occupational Diseases are not indicated for Unorganised Workers who are not covered by ESI.
- List of Occupational Diseases is only 29 while according to ILO list 109
- Safety Clause for Building workers present in section 40 of BOCW Act is not included in OSH code.
- For Migrant Workers, compulsory registration in home villages and working places, mobile medical vans with OH unit, Child care ICDS for small children Education for older children in mother tongue, Shelters etc have not been provided.
- The role of the Labour Department in Source States in Interstate Migrant Workers Act has been removed in OSH code.
- Under the OSH code, the Beedi Workers will not be given 'work book' for entry of raw materials given, number of Beedis rolled and wage. Similar work book system is actually required for all Unorganised Workers including homebased workers to prevent cheating of wages and exploitations but not provided in the OSH code.
- For Domestic workers, since there is no provision for 'placement agency', their registration and the Tripartite Board for recruitment, regulation of employment and wages in the OSH code.

- Principle employers must be made liable for payment of wages, compensation for accidents and provision of amenities for Contract Workers and Migrant Labour
- There is no provision for “Equal pay for Equal Work” and regularization process provided for contract workers in the OSH code.
- Night Work for Women is allowed under the OSH code leading to unwanted repercussions.
- The proposal to increase the number of hours of permissible overtime work from 50 to 100 hours would cause serious hardship to workers and affect their health.
- The provision permitting the Government to exempt any industry from the application of the provisions relating to the employment of contract labour is an issue of concern and to be removed forthwith.
- The system of inspection has been replaced by Inspection cum Facilitation. This is also contrary to ILO convention number 81(Labour inspection convention) which India has ratified.
- Permitting the compounding of offences would reduce the deterrent value of the penalties spelt out in the code. Permitting the Employer to deflect the alleged commission of the offence on the “Actual offender” would also reduce the deterrent value of the penalties spelt out in the code.

#### **On Industrial Relations Code :**

- Total Ban on Strikes by making Strike notice and conciliation compulsory resulting in no legal strike in Public utility and non - public utility companies.
- Thus Core Labour standards of Freedom of Association and Collective Bargaining destroyed.
- Union must have 75% of support to be a Sole Negotiating Agent instead of the present state 50 % and there is no provision for secret ballot, long felt need.
- Adjudication done away with and private arbitration preferred which is against ILO Standards.

- Permission from Govt must be made mandatory for closures of all companies with 100 workers or more, as in Industrial Disputes Act.
- With lack of legal awareness and illiteracy among all workers especially in the Unorganized sectors, there is dire need to have non workers and retired workers in the leadership of Trade Unions. Hence the existing Trade Union Act provision must continue in the Industrial Relations code.

**On Wage Code:**

- Removal of scheduled employments will not help in getting minimum wages and in fact may push the wage down.
- Union Labour Minister talking of Rs 178 as floor wage has made a mockery of the Code.
- Equal remuneration, implemented very rarely, has no special provision for implementation.



# அமைப்புசாரா தொழிலாளர் கூட்டமைப்பு Unorganised Workers Federation

பதிவு எண் :3148/CNI

நெ.39, டாக்டர் அழகப்பா சாலை, புரசைவாக்கம், சென்னை - 600 084 போன் : 044 - 26650544

No.39, Dr. Alagappa Road, Purasawakkam, Chennai -600 084 Email : [uwf.tamilnadu@gmail.com](mailto:uwf.tamilnadu@gmail.com)

To

30.5.2020

Sri Md. Nizammuddin IAS  
Labour Secretary  
Govt of Tamil Nadu, Chennai 9

**Sub : Migrant Workers treated as bonded Labourers in Dharmapuri, need Urgent Justice.**

Dear Sir,

We bring to your attention about the beating and throwing out of Migrant workers Easwar Prasad 25 years and Babi 21 yrs on 27-28 May 2020 by the owner of Shiva Plastic, Dharmapuri, Tamil Nadu. The owner was angry with not only two of them but also three more workers (Dharmendra 21, Rajendra 28, Kushpoo 18) for going to Collectorate and registering their names for going to their home villages (Majhgaon) in Mandla District, Madhya Pradesh 481662. Due to the intervention of social Activists, the workers were rescued and handed over to the Dharmapuri Collectorate.

**When we probed further we got to know that they were bonded Labourers to the employer of Shiva Plastic Dharmapuri and were not paid minimum Wages and two workers Eswar and Babi taken advances.** Following are the details:

1. Minimum Wages in Plastic as per the G.O No. 15(2D) dated 16.3.2017 (enclosed) the basic Wage Would be Rs 6000 – 6600 per month and along with the DA (Table for DA enclosed) Rs 4471 per month making the daily wages for 8 hours as Rs 350
2. All of them had worked for 12 hours, hence the daily wage would be Minimum Wage for 8 hours plus 2 x Minimum wage for 4 hours. This would equal Rs 700 per day.
3. The Male workers in Shiva Plastic were paid Rs 12000 per month and women workers Rs 7000 per month.
4. Easwar and Babi his wife were employed from March 13<sup>th</sup> and were employed for 57 days. (and the company shut for 10 days for Lockdown). The other 3 had worked from Dec 2019.
5. Easwar and Babi had taken advance of Rs 18000 and only Rs 5000 was given as wage in the presence of RDO. (and suffered beating and verbal abused from the employer). Hence clear case of Bonded Labour.
6. All the workers were also given less than minimum wage and unequal wage was paid to the women. hence Forced labour only.

We request you to take following actions::

- An immediate enquiry about the Migrant Labour condition of Bondage and Non payment of Minimum Wages and Equal wage
- Immediate payment of wage arrears to the workers
- Declaration of these five migrant Labourers as Bonded Labourers under the Bonded Labour Abolition Act 1976 and provision of Release certificates and immediate relief.
- After carrying out the above actions sending them safely to their home villages by trains.

(R.Geetha)  
Advisor

9444050071

(T.M.Chandran)  
State President

(R.Leelavathi)  
State Secretary

(M.A.Jayakumar)  
State Tressurer



# அமைப்புசாரா தொழிலாளர் கூட்டமைப்பு Unorganised Workers Federation

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## MEMORANDUM TO PRIME MINISTER OF INDIA SEEKING URGENT REMEDIAL ACTION

To  
The Honourable Prime Minister of India,  
Shri Narendra Modi,  
South Block,  
New Delhi

Dear Prime Minister,

We represent the unorganized construction workers, including the migrant workers of this country and had sent a representation from all over the country on 26.6.2020, to convey urgent concerns of survival and safety during the present lockdown and pandemic. Due to lack of response from you and the Labour Ministry **we wish to bring to your immediate attention the following issues and suggest some remedies** from trade unions and other organizations that have struggled for years to organise these exploited workers. Since the pandemic may persist for the next six months immediate solutions are required.

A major segment of the 50 crore unorganised workers are the 10 crore Building and Construction Workers, over a third of them women and children, who are homeless and have little access to health care and education. Worse, during the prolonged Covid 19 lockdown, they have had no work, income, lay off wages or other support from their employers. Many have had to walk back to their villages where too there is little employment available. **There is starvation, inability to pay rent and indebtedness that is driving some of them to even commit Suicide.**

Sir, the Union Finance Minister had announced on March 27, 2020 that relief would be given to all Construction Workers from their own Social Security funds of Rs 31,000 crores lying with the Construction Workers Welfare Boards. Unfortunately, the amount to be given was not specified. The state governments have disbursed meager amounts to a limited number of workers with live registration on the Boards. The vast majority have been left out while the Boards continue to sit on piles of Cess cash. This is leading to needless litigation and delays.

On the other hand, due to lack of funds from the Central Government or employers in the Unorganised workers' welfare Boards, the unorganized workers including weavers, domestic workers, loaders, hairdressers, dhobis, potters, tailors, artisans, tribals and agricultural workers all over the country are struggling with poverty, indebtedness and starvation.

1. In the context of the National Disaster Management Act whereby the GOI has centralised all decisions regarding the implementation of the lockdown, we bring to your notice Revised list of items & norms (e) of assistance from State Disaster Response Fund (SDRF) / National Disaster Response Fund (NDRF) to focus on the relief that should be extended to the vulnerable people whose livelihood

are affected by the disaster and therefore we demand that all workers be provided with a cash transfer of Rs 6300 per month for period of 3 months amounting to 18600 with immediate effect.

2. Public Distribution System must provide 35 Kg of Rice or 20 kg atta, 5 kg of Dhal and 3 Litres of oil every month.

3. a) Govt of India must direct all State Govts that **Rs 5000 plus dry rations** and Immunity promoting siddha and other medicines must be given to all Building and Other Construction Workers (BOCW) every month in all states, registered and unregistered, including those who may not have been able to renew their annual registrations. In TN, the Welfare Board has given only Rs 1000 every month for only Two / Three months along with dry rations for only one month. Even this money has not reached number of registered workers while the no renewal has not started and the state Government has declared that even after renewal and newly registered workers will not we paid the relief.

b). Unorganised Sector Welfare Boards must provide Rs 5000 every month for Registered workers along with dry rations and Kabasura kudineer and other medicines for immunity.

4. ESI must be implemented for BOCW and other Unorganised workers and Covid-19 must be declared as an Occupational disease and adequate compensation and treatment must be provided.

5. The Migrant workers who went back to their home villages are unable to find employment and hence have no option but go back to other states for work. It was felt that a **Rehabilitation Package must include Land to landless and the number of workdays under MGNREGA must be increased to 200 days** in a year for each worker (not each family) through individual Job Cards. They must be paid minimum wages on the basis of Pay Commission fixation for Class IV employees at Rs 600 per day.

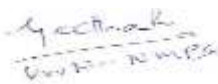
6. Migrant workers who are going to other states must be compulsorily registered in the home states before departure and in destination states after arrival by respective state governments through Trade Unions and Organization working with Migrant Workers. Decent conditions of work including safety gear, 8 hrs of work and payment of double wage for overtime work, decent living conditions with drinking water, toilets, child care, health care and education facilities must be ensured. There must be Assistance Centres wherever they live in substantial numbers.

7.a) Urban unemployment, starvation, inability to pay rent, indebtedness, and even suicides are on the rise. Since the pandemic may continue for another 6 months it is important to introduce an **Urban Employment Guarantee Scheme** wherein the unemployed must be given Job cards. They can be involved in home delivery of rations and cash relief apart from assisting families affected by Covid-19.

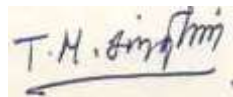
b) There must be Workers' Committees in every ward, zone and city level to implement the above programmes.

8. The Government of India must withdraw the draft Labour Codes & Rules which seek to repeal 44 Labour Laws and dissolve the existing BOCW & USW Welfare Boards and trample on existing labour rights and protections in the country.

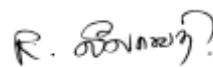
Sincerely Yours



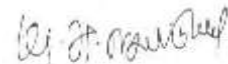
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அமைப்புசாரா தொழிலாளர்களின்  
தொழிற்சங்க கூட்டு நடவடிக்கை குழு  
UNORGANISED WORKERS JOINT ACTION COMMITTEE  
(CENTRAL TRADE UNIONS AND SECTORAL UNIONS OF TAMILNADU)

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MEMORANDUM TO PRIME MINISTER OF INDIA  
SEEKING URGENT REMEDIAL ACTION

To  
The Honourable Prime Minister of India Shri Narendra Modi,  
South Block, New Delhi

Dear Prime Minister,

We represent the unorganized workers including Building construction – Handloom – Domestic – Salt – Potters – Dhobi - Loading - Hair Dresses workers etc, as well as Tribals and migrant workers in Tamil Nadu. We wish to convey urgent concerns of survival and safety during the present lockdown and pandemic. **We wish to bring to your immediate attention the following issues and suggest some remedies** from trade unions and other organizations that have struggled for years to organise these exploited workers. Urban unemployment, starvation, inability to pay rent, indebtedness, and even suicides are on the rise. Since the pandemic may persist for the next six months immediate solutions are required.

We constitute 2.5 crore unorganised workers in Tamil Nadu and 50 crores in India. Over a third of them women and children, who are homeless and have little access to health care and education. Worse, during the prolonged Covid 19 lockdown, they have had no work, income, lay off wages or other support from their employers. Many have had to walk back to their villages where too there is little employment available. **There is starvation, inability to pay rent and indebtedness that is driving some of them to even commit Suicide.**

Sir, the Union Finance Minister had announced on March 27, 2020 that relief would be given to all Construction Workers from their own Social Security funds of Rs 31,000 crores lying with the Construction Workers Welfare Boards. Unfortunately, the amount to be given was not specified. The State Govt has disbursed meager amounts Rs 1000 per month for 2 months to a limited number of workers with live registration on the Boards. The vast majority have been left out while the Boards continue to sit on piles of Cess money. Dry Rations were given to registered and renewed Building Workers and Migrant Workers for one month. Similarly, Unorganised Workers registered in 17 Welfare Boards of Rotters, Hair dresses, Dhobis, Domestic Workers, Weavers, Fisheries, Cooks etc under Labour Department and another 16 Welfare Boards under other Departments such as Fisheries Tribals etc got Rs 1000 pm for 2 months, the money, got from State Govt.

1. In the context of the National Disaster Management Act whereby the GOI has centralised all decisions regarding the implementation of the lockdown, we bring to your notice Revised list of items & norms (e) of assistance from State Disaster Response Fund (SDRF) / National Disaster Response Fund (NDRF) to focus on the relief that should be extended to the vulnerable people whose livelihood are affected by the disaster and therefore we demand that all workers be provided with a cash transfer of Rs 6300 per month for period of 3 months amounting to 18900 with immediate effect. In



fact Govt of India has gained a massive amount due to lowering of crude oil price and hiking price of petrol / diesel, hence can provide for Rs 10000 pm to all worker families.

2. Public Distribution System must provide 35 Kg of Rice or 20 kg atta, 5 kg of Dhal and 3 Litres of oil every month. The Migrant Workers in Tamil Nadu who have stayed back and those who are returning to TN have not been given dry rations as announced by Govt of India. Ration card holders are given only 15 – 20 Kg Rice, 1 Kg Dhall and 1 Lr Oil, inadequate for a month.

3. Tamil Nadu Construction Workers Welfare Board and Unorganised Sector Welfare Boards must provide Rs 5000 every month for Registered workers along with dry rations and Kabasura kudineer and other medicines for immunity.

4. ESI must be implemented for BOCW and other Unorganised workers and Covid-19 must be declared as an Occupational disease and adequate compensation and treatment must be provided.

5.a) The Migrant workers who went back to their home villages must be provided with **Rehabilitation Package must include Land to landless and the number of workdays under MGNREGA must be increased to 200 days** in a year for each worker (not each family) through individual Job Cards. They must be paid minimum wages on the basis of Pay Commission fixation for Class IV employees at Rs 600 per day.

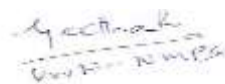
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6.a) Since the pandemic may continue for another 6 months it is important to introduce an **Urban Employment Guarantee Scheme** wherein the unemployed must be given Job cards. They can be involved in home delivery of rations and cash relief apart from assisting families affected by Covid-19 repans and construction of workers' housing and infrastructure.

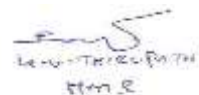
b) There must be Workers' Committees in every ward, zone and city level to implement the above programmes.

7. The Government of India must withdraw the draft Labour Codes & Rules which seek to repeal 44 Labour Laws and dissolve the existing BOCW & USW Welfare Boards and trample on existing labour rights and protections in the country.

Sincerely Yours



(R.Geetha)  
NMPS & UWF



(K.V.Thirupathi)  
HMS

Co ordinators - TUJAC

# NATIONAL CAMPAIGN COMMITTEE

## For Central Legislation on Construction Labour

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Date: 20-09-2020

To

Shri Narendra D. Modi  
Prime Minister of India

Dear Prime Minister,

This letter is further to the earlier several letters of Construction Workers sent to you directly and the NCC-CL letter dated 24 Feb 2020.

The bills on three Codes have been tabled in Lok Sabha on 19<sup>th</sup> Sept 2020 therefore we once again submit the following representation on behalf of the ten crore construction workers in the country.

Neither NCC-CL, nor any other organisation of construction workers, who constitute over ten crore workers in the country, got an opportunity to appear before the nineteen sittings of the Standing Committee.

NCC-CL representations and representations of various unions of construction workers have not been considered at all by the new draft of Social Security Code, 2020 tabled yesterday in Lok Sabha.

From the statement in para 62 of the Report of the Standing Committee that **“since the BOCW Act, 1996 is being amalgamated with the OSHWC Code”** it is clear that the Standing Committee worked under an absolutely wrong understanding, as far as the Building and Other Construction Workers are concerned. The fact is that not even a single line out of the BOCW Act 1996 has been amalgamated in the OSHWC Code 2020.

Only seven Sections out of the Sixty Two Sections of the Building & Other Construction Workers Act 1996 and Six Sections out of the Fifteen Sections of the Building & Other Construction Workers Welfare Cess Act 1996 have been included in the Social Security Code, 2020 (SS Code) which is highly insufficient for the proper functioning of the 37 State and Union Territory BOCW Welfare Boards.

**There is no assurance of keeping the continuity of the functioning of the existing 37 BOCW Boards, the registration of beneficiaries, the payment of pensions, education support to children and other benefit being given by the 37 BOCW Boards.**

Therefore we, the construction workers of the country, request you once again to please permit the implementation of the Supreme Court Judgment of March 2018 on the NCC-CL Petition (CWP 318 of 2006) and withdraw the proposal to repeal the BOCW Act, 1996 under Section 134 of the OSHWC Code, 2019 because of the following reasons:-

- (a) The OSHWC code is not of universal application and excludes the majority of the workers in the unorganized sector including crores of Agricultural workers, Domestic Workers and Home based workers etc. from its scope.
- (b) The OSHWC code is largely to be implemented by framing rules and regulations. The coverage and scope of the Rules are not spelt out in the Code, as in the case of BOCW Act Sec.40. **The provisions regarding safety, accidents etc. in a hazardous industry (Second most hazardous Industry in India and the world after Mines) like Building and Construction, that are present in the BOCW Act are absent in this Code.**
- (c) In the OSHWC Code there is no provision for Personal Protective Equipment, such as helmets, gloves, masks, shoes and safety belts (Requirements in Building Construction) to be provided by employers for any sector.
- (d) The schedules to the OSHWC Code, containing the list of Notifiable Diseases and the list of Occupational Diseases are only 29 in number and have merely been cut and pasted from the old laws such as Factories Act etc. while the List

of Occupational Diseases (107) in the ILO Recommendation No. 194 must be the basis. There is an urgent need to update the schedules, taking into consideration the realities of the present day, in the new Code. The provisions for treatment, compensation and rehabilitation are neither provided nor indicated.

Similarly, the existing provisions of various sectoral legislations related to several other unorganized sector workers which are being repealed by the OSHWC Code and the SS Code are not being adequately incorporated in the four Codes.

Therefore, **we request you once again not to repeal the existing legislations and allow the continuation of the existing tripartite boards and other mechanisms provided in these sectoral legislations and consult adequately with the trade unions of unorganized sector workers.**

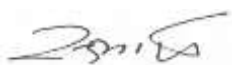
Construction workers do not need the kind of social security fund proposed in the Codes. We are already entitled to social security from our Welfare Boards that are adequately funded by a Cess on the building industry and our own registration fees. We get work for barely fifteen days in a month and earn roughly a quarter of the monthly minimum wage. We see no reason why we should be asked to pay between 12.5% to 20% of our monthly wages into a social security fund.

The system of collecting a minimum Cess of 1%-2% of total construction cost from a construction establishment, as per the BOCW Cess Act, 1996 is the best method for funding our social security.

The proposed diversion of the thirty thousand crore Rupees Cess amount and a much larger amount of interest earned on this Cess is absolutely illegal. We request your kind consideration in this matter and the immediate withdrawal of the Codes.

With thanks,

Yours Sincerely



Subhash Bhatnagar