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Registration, Expenditure and Audit Trends: A Technical Commentary on the Karnataka Building and Other Construction Workers' Welfare Board

Himanshu Upadhyaya

1. Introduction

- ¹ This chapter tries to understand the journey of a special purpose Fund—namely, the Karnataka Building and Other Construction Workers' Welfare Fund—one of a number constituted with the avowed aim of securing social security benefits and financing social welfare benefits for construction workers based on twin legislations passed in the Indian parliament on 19 August 1996.¹ Despite its elaborate legal framework, it has failed to achieve its intended purpose, and year after year it accumulates huge amounts of unspent monies. This is the case for funds lying with BOCW Welfare Boards in Indian states, the only exception being the Kerala BOCW Board, which has consistently reported substantial spending of workers' welfare funds. The accountability mechanisms that were envisaged appear to be ineffective despite Supreme Court orders and compliance audits by India's supreme audit institute, the Comptroller and Auditor General (CAG) of India.

2. History of the Twin Acts in the Indian Parliament

- ² Dietrich (1992) discusses the campaigns waged by the independent construction workers' union Tamil Manila Kattida Thozhilalar Sangam (TMKTS), which has been at the forefront of organising construction workers and their struggles in Tamil Nadu

since its inception in 1979, and specifically a protest action on 28 July 1992 involving a seven-kilometre-long procession from May Day Park to the State Secretariat. Among the several demands reiterated at this demonstration was the '[e]nactment of a central law, [the] Construction Workers (Regulation of Employment and Conditions of Services) Bill as submitted by the National Campaign Committee for Central Legislation on Construction Labour (NCC-CL) headed by Justice V R Krishna Iyer' (Dietrich, 1992: 1970).

2

- 3 General consensus on the need for central legislation emerged 'in a meeting of the Committee of State Labour Ministers constituted pursuant to the decision of the 41st Labour Ministers' Conference held under the chairmanship of the then Union Labour Minister on the 18th of May 1995'.³ In August 1995, when asked in parliament whether there was a proposal before the government for enacting a central law for agricultural and construction workers, the then Union Minister of Labour, P. A. Sangma, gave the reassurance that 'proposals for central legislations for agricultural and construction workers are at an advanced stage of consideration'.⁴ It was, however, another 12 months before central legislation for the welfare of construction workers was enacted in parliament.
- 4 Two pieces of legislation passed in the Indian parliament on 19 August 1996—the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) [BOCW (RECS)] Act, 1996 and the Building and Other Construction Workers' Welfare (BOCW) Cess Act, 1996—provide the basic structure for ensuring safety, health and welfare measures for the benefit of building and other construction workers. These two laws call upon State governments to enact similar enabling provisions within their jurisdiction, to levy and collect cess in order to provide social security benefits to construction workers, to establish a Building and Other Construction Workers' Welfare Fund, and to constitute a tripartite Fund management authority: a board with representation from employers (construction companies and builders), employee organisations (trade unions) and the Labour and Employment Department.
- 5 After passing the legislation in parliament, the central government took more than 26 months to draw up the 'Model rules' that States and Territories might apply to implement the Acts—releasing these only in November 1998. Meanwhile, on 24 February 1997, while replying to a question in the Rajya Sabha (the upper house of the bicameral Parliament of India) on the constitution of the BOCW Boards, the then Union Minister of Labour, M. Arunachalam, stated that 'as per available information, no State has constituted BOCWW Boards so far under the Central Act'.⁵
- 6 On 23 November 2000, while replying to a question asked by Ram Chandra Khuntia, a Member of Parliament seeking both information on 'whether it is a fact that two Acts passed in parliament for construction workers could not be implemented till today and the reasons thereof' and the details of 'whether Government have any action plan for the implementation of these two Acts', the then Union Labour Minister, Munni Lal, stated: 'The state governments, with the exception of Kerala and Tamil Nadu are in the process of framing the rules, notifying authorities, constitution of welfare boards, State Advisory Committees etc. The matter is being followed up regularly with the State Governments'.⁶
- 7 A few months later, in February 2001, Ram Chandra Khuntia once again asked the Minister of Labour 'whether it is a fact that Building and Other Construction Workers Welfare Act, 1996 and Building and Other Construction Workers' Welfare Cess Act, 1996

have not yet been implemented'. He also asked whether the government had any 'specific proposal to convene the meeting of all State Labour Minister for this purpose' and 'whether it is a fact that all recognised Central Trade Unions have proper representation in the (Central Advisory) Committee'. The then Union Labour Minister, Chunni Lal, replied:

The Building and Other Construction Workers (Regulation of Employment and Condition of Services) Act, 1996 and the Building and Other Construction Workers' Welfare Cess Act, 1996 are under various stages of implementation by the State Governments. The central rules in this regard have been notified and the Central Government as 'Appropriate government' has notified various authorities under the main act. *As labour is concurrent subject, the state governments are required to frame their own rules and notify their own authorities for implementation of the provisions of the Act in the State sphere. These actions are being taken up by the state governments and the matter is being followed up'* (author's emphasis).

- 8 On 20 August 2001, Member of Parliament Sukender Reddy Gutha asked whether the central government proposed to convene a meeting of all State Labour Ministers for the implementation of the BOCW Cess Act, 1996 and the BOCW (RECS) Act, 1996. The then Union Labour Minister, Munni Lal, replied in the negative.⁸ In response to the question of whether it was mandatory for the state governments to implement these central acts and to frame rules, the Minister told Lok Sabha (the lower house of India's bicameral Parliament), 'The power to frame rules under the Main Act lies with the appropriate government. The states have been advised to implement these acts and the matter is being regularly followed up' (Gutha, 2001).
- 9 More than a year later, only two States and one Union Territory (Kerala and Tamil Nadu, and Delhi, respectively) had constituted BOCW Welfare Boards, as revealed in Lok Sabha by the then Labour Minister, Alok Pradhan, in reply to a question on 2 December 2002.⁹ The Minister also told Lok Sabha that 'The Government have [sic] continuously been insisting all other States for the early implementation of the Act' (Gavit, 2002).
- 10 In total, eight years had gone by since the legislation had been passed, and yet many of the State governments and Union Territory administrations had not initiated the process of framing rules and notifying them, and the union labour ministers merely continued to remind their counterparts in State governments to do so.
- 11 Four years later still, on 21 August 2006, in reply to a question on the implementation of the BOCW Act, P. R. Kyndiah, the then Tribal Minister said, 'The state government[s] of Kerala, Madhya Pradesh, Delhi, Pondicherry, Gujarat, Uttaranchal and West Bengal have started implementation of Building and Other Construction Workers' Welfare Acts'.¹⁰ However, when a Member of Parliament sought details of the construction workers' welfare cess collected, the then Union Labour Minister, Chandra Sekhar Sahu, furnished the following information in his answer given in the Rajya Sabha on 23 August 2006:
 - 12 1. Kerala: cess collection: INR 130 crore¹¹ [approximately USD 16,600,000]¹² (from 1994-95 to 2004-05), Distribution: INR 117 crore [approximately USD 14,950,000]
 - 13 2. Delhi: cess collection: INR 24 crore [approximately USD 3,066,000] (up to 15th August 2006).
 - 14 Remaining state governments are still in the process of finalizing the procedures required for its implementation.¹³

- 15 Table 1 shows the dates on which BOCW Boards were constituted in Indian States and Union Territories.

Table 1 Prolonged delays in the constitution of BOCW Boards (illustrative examples)

State	Date on which BOCW rules were notified	Date on which BOCW Board was constituted
Andhra Pradesh	26 June 2006	30 April 2007
Assam	2007	February 2008
Bihar	7 September 2005	February 2008
Goa	10 April 2008	19 December 2004
Gujarat	18 August 2005	18 December 2004
Haryana	29 March 2005	2 November 2006
Jammu and Kashmir	17 July 2006	31 July 2007
Karnataka	1 November 2006	18 January 2007
Madhya Pradesh	1 January 2003	10 April 2003
Odisha	2 August 2002	3 January 2004
Pondicherry	29 August 2001	23 December 2002
Punjab	November 2008	April 2009
Rajasthan	30 April 2009	9 July 2010
Sikkim	September 1997	February 2010
Tripura	26 August 2002	20 January 2007
Uttarakhand	28 June 2005	October 2005
Uttar Pradesh	2009	November 2009
West Bengal	5 October 2004	20 September 2005

Source: Author's compilation of data from CAG of India's Compliance Audits on Functioning of State Building and Other Construction Workers' Welfare Boards.

3. The Karnataka Case

- 16 Turning now to the BOCW rules and Fund in Karnataka, it is worth noting that the initial national-level legislation for the welfare of construction workers was passed by

the Indian parliament in August 1996 when H. D. Devegowda, who hailed from Karnataka, was Prime Minister. And yet Karnataka State did not frame the rules necessary to implement this welfare legislation for ten years, until 1 November 2006. At a State-level workshop on the implementation of the BOCW Act on 16 November 2014, 'Chief Justice of the Karnataka High Court, D. H. Waghela criticized that it took a decade for the state to formulate rules for the Act and it was high time that the funds reached the last worker' (Bharadwaj, 2014). The Karnataka BOCW Board was finally constituted on 18 January 2007 and cess collection began in April 2007.

- 17 A study of and report on the functioning of the Karnataka BOCW Board commissioned by Karnataka Evaluation Authority (November 2020) notes that 'only about 6.25 percent of the cess funds have been utilised so far' (Public Affairs Committee, 2020, 98).

3.1 Major Instances of Non-compliance with the Provisions of the BOCW Act in Karnataka

- 18 A compliance audit of the functioning of the Karnataka BOCW Board for the period from 2008–09 to 2012–13 was conducted by the CAG of India between January and May 2013. The findings were reported in the Report of the CAG of India on Karnataka (General and Social Sector Audit) for the year ending March 2013, in Audit Paragraph 3.3 in Report No.3 of 2014 (CAG of India, 2014). A subsequent compliance audit of the functioning of the Karnataka BOCW Board between 2014-15 and 2018-19 was also conducted by the CAG of India, between February and August 2019. Its findings were reported in the Report of the CAG of India on Karnataka (General and Social Sector Audit) for the financial year ending March 2019, in Audit Paragraph 3.1 in Report No. 3 of 2020 (CAG of India, 2020). A document that lists the status of audit paragraphs that have not yet been taken up by the Public Accounts Committee of the Karnataka State Assembly includes compliance audits of the Karnataka BOCW Board, reported in the CAG of India's Report on Karnataka (General and Social Sector Audit), both for the fiscal year 2012–13 and for the fiscal year 2018–19.¹⁴
- 19 One of the major criticisms voiced by the auditors was that while Section 4 of the Act requires the State government constitute a State Advisory Committee, it took until May 2013 to do so. Similarly, Section 5 (1) of the BOCW Act requires the State government constitute one or more expert committees consisting of members who are qualified to advise the State government on drafting the rules and designing the welfare schemes to be implemented by the BOCW Board. In its compliance audit, the CAG noted that the Karnataka State government had constituted such an expert committee only in June 2012 (that is, more than five years after the 2006 notification of the BOCW State rules) and that the Committee's advice had not been obtained before amending certain provisions in the State rules on 1 February 2013.

3.2 Registration Trends at the Karnataka BOCW Boards

- 20 In this section, I use available public records to analyse the trends in registration at the Karnataka BOCW Boards. Registration was low during the initial period. Table 2 gives the number of registered workers between 2007 and 2013

Table 2 Cumulative number of registered workers at the end of each fiscal year (2007–13)

Year	Cumulative number of beneficiaries registered	Registered workers as a percentage of (estimated) total of construction workers
2007–08	33,952	2.26
2008–09	72,315	4.82
2009–10	101,709	6.78
2010–11	128,248	8.55
2011–12	190,254	12.68
2012–13	270,352	18.02

Source: CAG of India (2014, 83).

21 The 2013 compliance audit of the functioning of the Karnataka BOCW Board states:

The Board had roughly estimated 15 *lakh*¹⁵ (1.5 million) construction workers in the State during September 2007. Though the Board had been contemplating a survey of building and construction workers in the State to build a database, it dropped (January 2010) the proposal in view of the impending population survey by the GoI (Government of India). However, the Board had not obtained the survey details from the GoI after the completion of the population census to identify the construction workers and build a database. As of March 2013, only 2.70 *lakh* (0.27 million) construction workers (that is, 18.02 per cent of the September 2007 estimate) had been registered as beneficiaries under the Act (CAG of India, 2014, 83; see also Niranjankumar (2013)¹⁶).

22 During the next seven-year period (April 2013 to February 2020), we witness a significant, tenfold increase in cumulative registrations.

23 In reply to a question asked in parliament on 21 July 2014 (Unstarred Question No 1608), the Minister of Labour and Employment stated that the estimated number of construction workers in Karnataka was 1.59 million, as per a survey conducted by the National Sample Survey Organisation (68th Round, conducted between July 2011 to June 2012). The same reply also claimed that as of 31 March 2014, the Karnataka BOCW Board had registered 328,602 construction workers (so, 20.66 per cent) as beneficiaries under the Karnataka BOCW Board (Minister of Labour and Employment, 2014).

24 In reply to a question on 27 April 2015 (Unstarred Question No.5449), the Minister of Labour and Employment stated that the number of construction workers registered with the Karnataka BOCW Board as of 31 December 2014 was 558,364. Thus, in a 21-month period (April 2013 to December 2014), the registration of workers had picked up

pace, and the Board had registered more workers in this period than during the first six years combined.

- 25 The Parliamentary Standing Committee report on Cess Funds and their Utilisation (Ministry of Labour and Employment, 2017) states that the cumulative number of construction workers registered with the Karnataka BOCW Board as of 31 March 2017 (provisional) was 1,074,000. Thus, the Karnataka BOCW Board had registered a further 515,636 construction workers within the 27-month period from 1 January 2015 to 31 March 2017.
- 26 Replying to a question asked in Lok Sabha on 11 February 2019, the Union Minister of Labour and Employment, Santosh Gangwar, stated that the number of construction workers registered with the Karnataka BOCW Board as of 30 September 2018 (provisional) was 1,542,432. Thus, the Karnataka BOCW Board had registered a further 468,432 construction workers 18 months (that is, between 1 April 2017 and 30 September 2018). Interestingly, the Union Minister cited the same number in reply to a request (Unstarred Question No. 1284), made on 25 November 2019, for an update on the number of workers registered by the Board.
- 27 In its audit of the BOCW Board for the period 2014–15 to 2018–19, the CAG of India stated that ‘as of March 2019, the Board had registered 15.69 lakh (1.569 million) workers’ (CAG of India, 2020, 55).¹⁷ Then, on 3 February 2020, in reply to a question (Unstarred Question No. 90) asked in Lok Sabha, the Union Minister of Labour and Employment, Santosh Gangwar, stated that the number of construction workers registered with the Karnataka BOCW Board as of 30 November 2019 (provisional) was 2,178,200.¹⁸
- 28 On 14 July 2020, the Union Ministry of Labour and Employment shared Guidelines on a Mission Mode Project for accelerating the registration of construction workers with State government and Union Territory administrations. As per the data provided in these Mission Mode Project for Building and Other Construction Workers (BOCW) Advisory Guidelines (Ministry of Labour & Employment, 2020, 22–23), the number of active BOCW workers in Karnataka was 2,183,294.¹⁹
- 29 While such a significant jump in registration figures compared to the snail’s pace of the initial six years is heartening, it is concerning that the BOCW Board has made no effort to make public further data pertaining to registration (for example, how many registered workers are active, how many workers failed to renew their membership during the COVID-19 pandemic, etc.). To understand the universe of eligible claimants for the social welfare benefits extended by the BOCW Board, it is very important to have such data preferably on a quarterly, and at least an annual basis. If the Board were to start making this data public, researchers and trade union representatives would be able to track dropout rates and retention rates, enabling an evaluation of the impact of information, education and communication expenditure at the district level.
- 30 This is echoed in audit findings made public on 9 December 2020:

[T]he Board did not have any details of the number of registered workers, renewals of registration, number of applications received, benefits disbursed under each schemes [sic] and hence failed to have a database of number of eligible beneficiaries vis a vis amount disbursed which would have been useful for policy making and performance analysis. (CAG of India, 2020, 56)

- 31 This is disconcerting because maintaining proper records is a basic requirement under the BOCW Act of 1996. In the absence of this, it is unclear how the audit institution performs its constitutional duty of carrying out compliance audits.
- 32 A 2020 study on the functioning of the Karnataka BOCW Board, commissioned by the Karnataka Evaluation Authority, found that registration of construction workers was low. The authors speculate that ‘this may be due to manual process of registration until 2016’ (Public Affairs Committee, 2020). During discussions with senior trade unionists who have been active since the drafting of the BOCW cess bill, I learned that BOCW Board officers responsible for cess collection and the registration of establishments do not ensure that at the time that building plans are approved and cess collected a list of workers and details regarding their BOCW Board membership is asked for and scrutinised, or that surprise visits to establishments are undertaken frequently and camps are organised at construction sites to raise awareness regarding the welfare schemes implemented by the Karnataka BOCW Board. With regard to this concern, the 2020 study makes the following recommendations:

Online registration of workers using Karmika 1 and Seva Sindhu should be continued as it consumes less time, avoids bottle necks and increases the transparency in the process. Conduct surveys to identify and estimate number of construction workers working in the state including migrants from other states. Initiate Government-Local volunteer organisations such as youth clubs to overcome difficulties in registration of construction workers and to sustain registration drives at construction worksites, labour chowks and in settlements where construction workers live. In addition, use of electronic and other media such as short advocacy films may be of great use. Engage the support of concerned departments for registration of beneficiaries. (Public Affairs Committee, 2020, 97)²⁰

3.3 Expenditure Trends at the Karnataka BOCW Board

- 33 During its very first year the Board received INR 44.56 crore (approximately USD 5,700,000) in welfare cess.²¹ Four and a half years later, expenditure on welfare remained low. A news report in *The Economic Times* that brought this fact to light stated that as of June 2011 the Karnataka BOCW Board had collected INR 855.93 crore (approximately USD 109,250,000) but that it had failed to spend even 1 per cent of its welfare cess, as it had reported expenditure to the tune of only INR 8.21 crore (approximately USD 1,050,000) (Celestine, 2011).
- 34 Until 31 March 2013 the Board had spent only INR 8.93 crore (approximately USD 1,141,000) on welfare expenses of a mere 15,973 workers. During the approximately seven-year period June 2007 to September 2014, the Board had at its disposition funds to the tune of INR 2,386.56 crore (approximately USD 304,902,000) collected through the cess and an additional INR 494.68 crore (approximately USD 63,200,000) in interest accrued on the unspent balances. However, in the same period, the Board had spent only INR 21.8 crore (approximately USD 2,785,000) on the welfare of workers and on other administrative measures (Bharadwaj, 2014). While cess collection during this initial period was higher than expected, the expenditure figure raises many concerns. Table 3 reveals that only a fraction of the cess collected was spent on workers’ welfare. The amount spent during the five-year period 2008–13 was only INR 30.93 crore (approximately USD 2,785,000), which amounts to a meagre 2.28 per cent of the total funds available. It was a worrisome trend that even as welfare cess contributed by employers in the construction sector reached such a level that the annual interest

earnings of the Board rose from INR 9.92 crore (approximately USD 1,268,000) in the year 2008–09 to as high as INR 113.08 crore (approximately USD 14,450,000) in the year 2012–13, cumulative expenditure on welfare schemes for the same five years amounted to a meagre INR 8.92 crore (approximately USD 1,140,000).

Table 3 Persistent 'Unspent' during the period 2008–13 (INR in crores)

Year	Estimated receipts			Actual receipts			Estimated expenditure		Actual expenditure	
	Interest	Fees	Cess	Interest	Fees	Cess	Claims	Other than claims	Claims	Other than claims
2008–09	1.87	0.85	60.00	9.92	0.41	154.61	30.00	7.90	0.13	1.37
2009–10	33.25	0.08	144.00	23.83	0.61	227.39	5.00	10.94	0.36	2.53
2010–11	14.62	6.63	204.00	35.82	0.78	325.20	5.00	19.10	1.10	5.75
2011–12	39.27	3.00	300.00	99.27	1.35	360.62	5.00	36.01	2.91	5.43
2012–13	88.90	4.00	360.00	113.08	2.28	483.09	8.00	163.57	4.42	6.93
Total	177.91	14.56	1,068.00	281.92	5.43	1,550.71	53.00	237.52	8.92*	22.01

Source: CAG of India (2014, 90).

- 35 The CAG Audit of 2013 also points out that in contravention of Section 24(3) of the BOCW Act, which prescribes that the Board shall not incur expenses towards salaries, allowances or other remuneration of its members, officers or other employees or for meeting other administrative expenses in excess of 5 per cent of its total expenses during that financial year, such administrative expenditures incurred by the Board during 2008–13 constituted between 30 per cent and 54 per cent of total expenditures, as shown in Table 4.

Table 4 Details of administrative expenditures and total expenditures (2008–13) (INR in crores)

Year	Administrative expenditures	Total expenditures	Administration as a percentage of total expenditures
2008–09	0.81	1.50	54
2009–10	1.33	2.89	46

2010-11	2.32	6.85	34
2011-12	2.62	8.34	31
2012-13	3.45	11.35	30
Total	10.53	30.93	

Source: CAG of India (2014, 80–93).²²

- 36 The auditors further observed that out of INR 30.93 crore (approximately USD 3,952,000) of total expenditure incurred by the Board during the period 2008–13, there was capital expenditure to the value of INR 10.16 crore (approximately USD 1,300,000), mainly on construction of office buildings. There were also miscellaneous expenditures, which amounted to INR 1.33 crore (approximately USD 170,000).
- 37 Did this trend of very high administrative expenditure undergo any course correction following the above criticism from the national auditor? A detailed compliance audit of the five-year period 2014–19 reveals the following details:

Table 5 Details of administrative expenditures and total expenditures (2014–19) (INR in crores)

Year	Administrative expenditures (AE)	Total expenditures (TE)	AE as a percentage of TE (%)
2014–15	8.75	27.06	32
2015–16	8.00	66.06	12
2016–17	9.37	102.00	09
2017–18	10.90	127.93	09
2018–19	386.54	536.96	72
Total	423.56	862.01	49

Source: Compiled from Table 3.1, titled 'Statement showing Receipts and Expenditure of the Board', of the CAG of India's Audit Report on Karnataka (General and Social Sector) for the year ending 31 March 2019 (CAG of India, 2020, 54).

- 38 Table 3 has shown us how the officials of the Karnataka BOCW Board repeatedly underestimated interest earned on the Board's cash holdings.. Another crucial question that should be asked by construction workers is why the Board has spent only a fraction of the total funds available and has ended up spending much less on welfare schemes targeting construction workers than the annual interest it has earned from accumulated unspent funds. On the expenditure estimates in the BOCW Board budget, the figures quoted for all years except the year 2008–09 beg the question why the Board so consistently forecast very high expenditures under 'other than claims'.

- 39 A truly pro-workers welfare board could have utilised its substantial cash holdings for recurring welfare expenditures such as educational assistance to children of construction workers and pension benefits. Two compliance audits by the CAG of India and scrutiny of the Karnataka BOCW Board budgets show us that Board officials have been lethargic in proper record-keeping and budgeting for utilisation of available funds.
- 40 In clear contrast to the Kerala story (see Lipin Ram's contribution to this thematic volume), the Karnataka BOCW Board has consistently underspent the cess collected for construction workers' welfare.
- 41 Table 6 shows the cess collection and expenditure patterns of the Board from 2012 to 2018, and is compiled from parliamentary records and other publicly available documents. It shows that the pace of expenditure has a slightly upward trend from 1 April 2013 onwards.

Table 6 Cess collected and expenditures by the Karnataka BOCW Board (INR in crore)

As of	Cess collected	Expenditure	Expenditure as a percentage of cess collected
31 March 2012 ²³	1,000.32 (10.0032 billion)	10.96 (0.1096 billion)	1.09 % only
31 March 2013 ²⁴	1,439.55 (14.3955 billion)	22.75 (0.2275 billion)	1.58 % only
30 September 2013 ²⁵	1,741.13 (17.4113 billion)	30.87 (0.3087 billion)	1.77 % only
31 March 2014 ²⁶	1,741.13 (17.4113 billion)	34.49 (0.3449 billion)	1.98 % only
31 December 2014 ²⁷	2,225.45 (22.2545 billion)	112.07 (1.1207 billion)	5.03 % only
30 June 2016 ²⁸	3,592.06 (35.9206 billion)	90.43 (0.9043 billion)	2.51 % only
31 March 2017	3,861.00 (38.61 billion)	240.00 (2.40 billion)	6.21 % only
31 December 2017	4,375.56 (43.7556 billion)	328.57 (3.2857 billion)	7.50 % only
31 December 2018	5,071.04 (50.7104 billion)	535.23 (5.3525 billion)	10.55 % only

Source: Compiled from several questions asked by parliamentarians and answers furnished in the Indian parliament.

- 42 In reply to a question asked in Lok Sabha (Unstarred Question No. 5449) on 27 April 2015, the Minister of Labour stated that the cess collected by the Karnataka BOCW

Board during the period 1 April 2011 to 31 December 2014 was INR 1,480.30 *crore* (approximately USD 190,000,000) and that the Board's expenditure during this period was INR 105.32 *crore* (approximately USD 13,464,000).

- 43 In a reply, on 27 April 2016, to a similar question seeking State- and Union Territory-level details of expenditures from the BOCW Fund in Rajya Sabha (Unstarred Question No 429), the then Union Minister of Labour and Employment, Bandaru Dattatreya, stated that Karnataka BOCW Board had spent INR 205 *crore* (approximately USD 26,206,000) up to 31 March 2016, as per provisional figures supplied by the State government.²⁹
- 44 Table 7 provides yet more detail on the incomes and expenditures of the Board until 2020.

Table 7 'Yearly details of Board incomes and expenditures, and total available funds' (INR in *crore*)

Year	Cess collected	Interest from fixed deposits	Interest from savings accounts	from bank	Registration & renewal fees	Total available funds
2006-07	-	-	0.0062		1.0000	1.0062
2007-08	45.0258	0.8100	0.0077		1.0000	46.8436
2008-09	164.9399	1.6773	0.0073		0.0003	166.6249
2009-10	227.5668	23.8337	-		0.0016	251.4021
2010-11	325.2020	35.0593	0.7593		0.0002	361.0210
2011-12	360.6168	98.4649	0.8011		1.3467	461.2296
2012-13	483.5803	133.7854	3.0861		2.2539	622.7058
2013-14	480.8724	198.7532	0.6090		6.1032	686.3380
2014-15	656.0666	307.0040	0.7530		5.6964	969.5202
2015-16	621.1145	268.9498	2.2585		6.5094	892.9739
2016-17	709.2569	315.8332	6.9456		3.2742	1,035.3101
2017-18	769.9335	348.9266	17.2121		5.1405	1,141.2129
2018-19	868.5308	327.4772	6.4260		2.3682	1,204.8024
2019-20 (until February)	839.7327	63.9355	-		-	903.6683

Total	6,552.4395	2,124.5108	38.8726	28.8366	8,744.6596
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Source: Summative Progress Report of the Karnataka BOCW Board for the quarter ending 29 February 2020.

- 45 While this detailed reporting by the Board on cess collection, interest earned on funds deposited, and income in the form of registration and renewal fees is quite useful, our scrutiny of the data provided in this periodic Progress Report reveals a sleight of hand that raises a crucial accountability concern. This Progress Report only gives data on the disbursement of benefits for the welfare scheme; it does not give information on administrative expenditure-related items. As the compliance audit by the CAG of India (2020) shows, the Board ended up allocating between 9 per cent and 72 per cent of its total expenditures during the period 2014–19 to administrative expenses.
- 46 A recent study of the functioning of the Karnataka BOCW Board undertaken by the Public Affairs Centre and commissioned by the Karnataka Evaluation Authority found that ‘among all welfare schemes, only education and marriage assistance schemes are popular and only 10 percent of the total registered workers have availed [themselves of the] benefits of all other welfare schemes [combined].’ The study made the following recommendation regarding welfare scheme implementation:

Initiate Government-local community organisations such as volunteer youth club collaborations to overcome difficulties in registration of construction workers and to sustain registration drives at construction worksites, labour chowks and in settlements where construction workers live. Continue practice of welfare schemes for education and health benefits to workers and their families. Identify the reasons for low uptake of all other welfare schemes except education and marriage schemes and take action accordingly. Involve Education and Health Departments to channel education and health related benefits through these departments. Delay in receiving the benefits by beneficiaries can be avoided by transferring the claims directly to the beneficiaries’ accounts – Direct Benefit Transfers (DBT) – once the claims are approved by the authorised officials. Use unutilised funds for occupation health and safety at the work site, establishment and operations of help lines, Grievance Redress, [and] distribution of sanitary pads to women workers. (Public Affairs Committee, 2020, 97)

4. Social Welfare, Safety, and Health, or Capital-Intensive Expenditure?

- 47 The big-ticket proposals that the Karnataka BOCW Board was actively considering during the fiscal year 2014–15 included establishing a National Construction Academy at Doddaballapur (INR 250 crore (approximately USD 31,950,000)), convention centres across the State (INR 45 crore (approximately USD 5,750,000)) and transit housing across the State for migrant workers (INR 130 crore (approximately USD 16,613,000)). N. P. Samy, President of the Karnataka State Construction Workers’ Central Union, along with other trade union representatives, described the transit housing and the convention centres as ‘wasteful expenditure’ and a ‘diversion of funds’, and demanded that the Board spend on workers’ welfare instead of such infrastructures (Bharadwaj, 2014) The trade unions did, however, welcome the National Construction Academy proposal.

5. Accounting and Auditing Processes and the Continued Tale of Non-compliance

- 48 The BOCW Acts at the all-India level provide for the timely transfer of cess by the collection authority (municipal corporation/government department) to the Board within 30 days of collection. The cess received—being non-tax receipts of State governments—must be reflected in the Consolidated Fund of the State Government and must then be transferred to the specific-purpose fund maintained in the Public Accounts of the State/BOCW Board’s public deposit accounts held in nationalised bank(s), as directed by Supreme Court order.
- 49 The CAG of India’s compliance audit of the functioning of the Karnataka BOCW Board for the period 2008–09 to 2012–23 revealed that there were no arrangements for internal audit. The CAG recommended (in September 2013) that a dedicated independent internal audit wing be established to ensure the fiscal integrity of and legal compliance by the Board. The State government agreed (also in September 2013) with this recommendation.
- 50 When we look at the State Finance Accounts for Karnataka for the fiscal year 2017–18, we find the following remarks on BOCW cess collection and remittances:
- The cess levied under the Karnataka Building and Construction Workers’ (Regulation of Employment and Condition of Services) Rules, 2006 is accounted under the Public Accounts under the head of account ‘8449-00-120-0-18-660.’ The transaction under this head of account had commenced from November 2017 and as at the end of March 2018, INR 37.94 crore [approximately USD 4,850,000] was credited to this account and no expenditure had been booked. (CAG of India, 2019a, 63)
- 51 The above observation by the auditors reveals an anomaly, in that the cess collection authorities are transferring the cess directly to the BOCW Board’s bank accounts and only a very minuscule percentage of the cess (probably collected from State government projects) is routed through the State treasury. Such an anomaly creates an obstacle in ascertaining the quantum of cess receipts as the same is not reflected in the State’s accounts.
- 52 Further, when the CAG of India sought—in a subsequent compliance audit, for the period 2014–19—details of the internal audit wing and its work, the following answer went on record:
- It was stated that internal audit of record of Head office was being allotted to Chartered Accountants in each year. Further, bank reconciliation for the period 2012-13 to 2015-16 was also assigned to one agency. It was further stated that one accounts and audit officer was also appointed on outsource basis. However, internal audit of field offices could not be carried out for want of required staff.³⁰
- 53 The CAG of India’s Audit Report on Karnataka (State Finances) for the year ending 31 March 2018 states that the accounts of the Karnataka BOCW Board are supposed to be certified and audited by the CAG of India every year under Section 19(2) of the CAG (Duties, Powers and Condition of Services) Act, 1971 as well as under the provisions of the BOCW Act. In Appendix 3.3, while reporting on the ‘Status of submission of accounts of Autonomous Bodies and placement of (separate) Audit Reports before the Legislature’, it is stated that the Board had rendered up its finalised accounts up to the fiscal year 2015–16 to the CAG of India and that the CAG had issued an audit report on

BOCW accounts for the year 2015–16, but that the same had not been set before the State assembly until the finalisation of the audit report (CAG of India, 2019b, 155).

- 54 Even though the Central Act envisions a supplementary audit of the Board's annual accounts in addition to a statutory audit, this provision has not been complied with in letter and in spirit, as can be seen from the above observation. Subsequent to this observation, an application under the Right to Information Act was filed with the Public Information Officer at the office of the Principal Accountant General with a request to make available to the applicant Separate Audit Reports (Certification Audit Comments) on the annual accounts of the Karnataka BOCW Board for the last five fiscal years. The response to that application confirmed that the Karnataka BOCW Board had not submitted finalised annual accounts for any year since 2015–16. Citizens would also face a crucial obstacle were they to seek a Separate Audit Report (Certification Audit) and annual financial accounts of BOCW Board since in reply the Public Information Officer would put forward the argument that the required records cannot be shared until they have been tabled in assembly as it would constitute a breach of assembly privilege.
- 55 Under the BOCW Act, the certification of the annual accounts of State BOCW Boards by the constitutional audit institution was imagined as an accountability mechanism. It is thus disappointing that the CAG of India has not been proactively ensuring compliance with this legal accountability requirement by State BOCW Boards.

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NOTES

1. Probably the earliest example of such a Welfare Fund promising to provide basic social security features including housing, safety, and health and general welfare for workers is the Coal Mine Labour (Housing and General) Welfare Fund established by an Act of Parliament in 1947. Other Social Welfare Funds that were created under central legislation for 'unorganised sector workers' include the Mica Mines Labour Welfare Fund (1946), the Limestone and Dolomite Mines Labour Welfare Fund (1972), the Beedi Workers' Welfare Fund (1976), the Iron Ore, Manganese Ore and Chrome Ore Mines Labour Welfare Fund (1976) and the Cine Workers' Welfare Fund (1981).
2. Dietrich (1992, 1971) also mentions that '[i]n 1982, the Tamil Nadu Manual Workers Act was enacted, which covers construction workers in the 10th schedule. However, the scheme to go with it has not been introduced so far'. Dietrich credits a national seminar on construction workers organised by TMKTS for sowing the seed of the National Campaign Committee for Central Legislation on Construction Workers.
3. Statement of Objects and Reasons for enactment of the BOCW Act, as cited in Lokur (2006, 5).
4. Starred Question 249, answered in Rajya Sabha on 21 August 1995.
5. Unstarred Question No.223, answered in Rajya Sabha on 24 February 1997.
6. Unstarred Question No 460, answered in Rajya Sabha on 23 November 2000.
7. Unstarred Question No 196, answered in Rajya Sabha on 22 February 2001.

8. A similar question was asked earlier in Rajya Sabha, and in the reply given on 26 July 2001 the union minister rejected a call to convene a meeting of all the State Labour Ministers for the implementation of the Building and Other Construction Workers Welfare Acts. See Unstarred Question No 574, answered in Rajya Sabha on 26 July 2001. <https://pqars.nic.in/annex/193/Au574.pdf>
9. Similar to Kerala, Tamil Nadu had enacted the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982 and framed thereunder the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Rules, 1986. The Tamil Nadu Construction Workers' Welfare Board was constituted in November 1994, under section 6 of the Tamil Nadu Manual Workers (RECW) Act. The Government of the National Capital Territory of Delhi had notified the Delhi Building and Other Construction Workers (RECS) Rules in January 2002 and constituted the Delhi Building and Other Construction Workers' Welfare Board in September 2002.
10. Unstarred Question No 2558, answered in Rajya Sabha on 21 August 2006. <https://pqars.nic.in/annex/208/Au2558.pdf>
11. A *crore* is a unit of measure denoting ten million in the Indian numbering system.
12. Conversions throughout this chapter are calculated based on the rate for June 2022, when 1 US dollar (USD) was worth approximately 78.28 Indian rupees (INR).
13. Unstarred Question No 2838, answered in Rajya Sabha on 23 August 2006. <https://pqars.nic.in/annex/208/Au2838.pdf>
14. See page 2 of this 12-page status update, from 31 March 2021, <https://cag.gov.in/uploads/media/Paragraphs-relating-to-Pr-AG-Audit-I-Reports-II-yet-to-be-discussed-by-PAC-as-of-31-03-2021-20210803112020.pdf> (accessed on 31 January 2022).
15. A *lakh* is a unit of measure denoting one hundred thousand in the Indian numbering system.
16. Niranjankumar's piece, in the *Deccan Herald*, cites Karnataka State Construction Workers' Central Union president N. P. Samy's claim that 'There are about 18 *lakh* construction workers in the state and only 2.7 *lakh* of them are registered'.
17. We are also told in this audit report that the year 2018–19 witnessed a special drive to register 5.05 *lakh* Mahatma Gandhi National Rural Employment Guarantee Act workers as members of BOCW Board.
18. As per the Summative Progress Report of the Karnataka BOCW Board for the date 29 February 2020, the cumulative number of registered workers was 2,173,739. When researchers queried workers' union representatives and journalists on this trend of decreasing numbers, an anecdotal explanation suggested that the Board officials had decided to weed out suspected enrolment by undertaking rigorous scrutiny and had removed labour contractors who were availing welfare benefits from the Board so far.
19. This appears doubtful, as the cumulative number of registered workers and the number of those who are active are unlikely to be similar. It has often been seen that retention rates are low, and many of the BOCW Boards across the country—with the probable exceptions of Kerala and Chhattisgarh—have reported substantial dropout rates. That is to say, every year a significant number of previously registered workers fail to renew their membership by paying renewal fees.
20. Karmika 1 and Seva Sindhu are names of two online registration portals designed by the Department of Labour, Government of Karnataka and Karnataka BOCW Board.
21. See Starred Question No 42, answered in Rajya Sabha on 18 February 2009. <https://pqars.nic.in/annex/215/As42.htm> (accessed on 31 January 2022).
22. During the year 2018–19, the CAG of India undertook a similar review of the functioning of the Karnataka BOCW Board for the period 2014–19. This occurs as Audit Paragraph 3.1 in the CAG of India's Audit Report on Karnataka (General and Social Sector) for the year ending March 2019, finalised by the Principal Accountant General on 10 November 2020 and countersigned by the

CAG on 20 November 2020 (CAG of India, 2020). This review entered the public domain following the presentation of the audit report in the State assembly on 9 December 2020.

23. See Unstarred Question No 1465, answered in Lok Sabha on 21 July 2014. http://164.100.47.193/Annexture_New/lsq16/2/au1465.htm (accessed on 30 January 2022).

24. See Unstarred Question No 1465, answered in Lok Sabha on 21 July 2014. http://164.100.47.193/Annexture_New/lsq16/2/au1465.htm (accessed on 30 January 2022).

25. See Unstarred Question No 2914, answered in Lok Sabha on 10 February 2014 (Hedge, 2014).

26. See Unstarred Question No 1465, answered in Lok Sabha on 21 July 2014. http://164.100.47.193/Annexture_New/lsq16/2/au1465.htm (accessed on 30 January 2022).

27. See Unstarred Question No 978, answered in Lok Sabha on 2 March 2015. http://164.100.47.193/Annexture_New/lsq16/4/au978.htm (accessed on 30 January 2022).

28. See Unstarred Question No 4413, answered in Lok Sabha on 12 August 2016 (Rajesh, 2016).

29. See Annexure 1, Unstarred Question No 429, answered in Rajya Sabha on 27 April 2016..

30. Appendix 3.4, titled 'Follow Up on the observations included in Paragraph 3.3 of the Report for the year ended 31st March 2013 (Report No 3 of 2014)' (CAG of India, 2020, 133–134).

ABSTRACTS

This chapter examines the Karnataka Building and Other Construction Workers' Welfare Fund, a special purpose fund constituted for the welfare of construction workers. Here I focus on the implementation of social security and welfare legislation. I rely on parliamentary records, two compliance reviews of the functioning of the Karnataka Building and Other Construction Workers' Welfare (BOCW) Board by the Comptroller and Auditor General of India, and reports from Kannada and English newspapers. In so doing, I show that greater scrutiny is required of the legislation's registration, expenditure and audit processes.

Ce chapitre examine le Karnataka Building and Other Construction Workers' Welfare Fund, un fonds qui a pour objectif le bien-être des travailleurs de la construction. L'auteur analyse la mise en œuvre de la législation en matière de sécurité sociale et de bien-être. Il s'appuie sur des documents parlementaires, sur deux examens de conformité du fonctionnement du Karnataka Building and Other Construction Workers' Welfare (BOCW) Board par le contrôleur et l'auditeur général de l'Inde, et sur des rapports de journaux kannada et anglais. Ce faisant, il démontre en quoi il est nécessaire d'examiner de plus près les processus d'enregistrement, de dépenses et d'audit de la législation.

INDEX

Keywords: funding mechanisms, income distribution, banking, empowerment, financing mechanisms, poverty, urban development, civil society, work, regulatory institutions, transparency and accountability, labour welfare laws, social security

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