



**INTERNATIONAL  
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WORKERS'  
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To  
Shri Amit Shah  
Ministry of Home Affairs  
North Block  
New Delhi - 110001  
India

Shri Nitin Gadkari  
R.No 310, Transport Bhawan, 1,  
Parliament Street,  
New Delhi-110001  
India

02 February 2024

Respected Sirs,

**Subject: Bharatiya Nyaya Sanhita (BNS) 106 and potential violations of international labour standards**

The International Transport Workers' Federation (ITF) is a global trade union federation, comprising 700 affiliated trade unions spanning 153 countries and encompassing nearly 20 million members engaged in the transport industry globally. Our role involves advocating for the rights of transport workers both within the International Labour Organisation (ILO) and other international forums. Notably, in India, more than 40 unions are proud members of the ITF.

In my capacity as the General Secretary of ITF, I am writing to express my concern regarding the content of Bharatiya Nyaya Sanhita, specifically the content of Clause 106. The manner in which this law was enacted, coupled with the treatment administered to trade unions that have voiced their protests against it, raises apprehensions about potential violations of international labour standards.

I also take this opportunity to request your engagement in a constructive dialogue with trade unions as such discussions are crucial to finding the most effective and equitable means to prevent ongoing unrest among drivers and to proactively enhance road safety conditions.

The ITF acknowledges that the BNS (Second) successfully passed the Indian Parliament's approval process at the conclusion of 2023 and is due to be enforced by the end of 2024. Notably, Clause 106(2) concerns situations where a driver inadvertently collides with another vehicle resulting in a fatality. This clause mandates a prison sentence of up

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to 10 years and heavy fines for drivers failing to promptly report such accidents. In contrast, Clause 106(1) imposes comparatively milder penalties if the accident is reported immediately.

We are concerned that these provisions put sole responsibility on commercial vehicle drivers in the case of fatal crashes without considering the underlying causes of India's accident rate, or the main reasons why drivers are unable to safely report accidents and other safety issues.

ITF-affiliated unions have pointed to several safety risks prevalent on Indian roads. These challenges include poorly maintained roads without sufficient lane divisions; poor lighting and signal systems; poor and insufficient rest areas; bad weather and poor visibility – in part as a result of climate change, and poorly maintained vehicles.

Of greater significance are the adverse working conditions faced by labourers, including the undue pressure exerted by shippers, vehicle owners, and transport companies to hasten deliveries. Factors such as extended working hours, meager compensation through lump-sum payment methods, absence of social security coverage, inadequate training, and the lack of acknowledgment as workers by employers and industry stakeholders collectively hinder drivers from ensuring safe practices while still providing for their families.

Our affiliates point out that despite these systemic problems, commercial vehicle drivers are almost always penalised in the case of accidents while root causes and the culpability of employers and other parties in the road transport contracting chain, including the companies who ship their goods by road, are usually ignored. What is more, drivers are often mistreated by police or have no clear avenue to report fatal accidents or other incidents, exacerbating the problem further.

I call your attention to the [ILO Guidelines on the Promotion of Decent Work and Road Safety in the Transport Sector](#), which were adopted through agreement by representatives of workers, employers, and governments at the international level in 2019. These Guidelines bring together and update the relevant ILO Conventions and best practices in road safety from around the world.

The Guidelines make clear that “The promotion of decent work and road safety is the shared and collaborative responsibility of governments, social partners (trade unions and employers) and road transport chain parties” (para 28). They also note that “Pressure from supply chain entities can be an underlying cause of transport workers adopting riskier and unsafe driving practices,” and warn against, “existing laws and enforcement mechanisms (that) address drivers without directly reaching those entities that are at the roots of these practices.”

The Guidelines make clear that to improve road safety, governments, in collaboration with road transport employers and participants in the road transport chain, must assume responsibility for the following:

- Attention to risk factors affected accidents (paras 90 and 93)
- Secure mechanisms for reporting of safety issues (para 98)
- Improved infrastructure and welfare facilities (paras 55, 112-116)
- Fair and safe pay (known as ‘sustainable payments’ or ‘safe rates’) (paras 76-82)
- Limits on driving and working time (paras 83-87)
- Contract transparency (paras 68-69, 177)
- Training and professionalisation (paras 142-143)
- Social security for all drivers (paras 121-124)

We are concerned that while they appear to be an attempt to deter reckless driving, the substantial penalties outlined in BNS 106(1) and (2) may serve as a means for the government and other stakeholders in the road transport industry to sidestep their collective responsibility in addressing fundamental safety concerns. This approach appears to shift the entire burden onto individual drivers.

Further, considering the potential ramifications of the law on road transport workers, engaging in consultations with trade unions representing these workers becomes imperative for fostering social consensus. Unfortunately, this consultation has not taken place. We are especially concerned that far from respect and dialogue one trade union leader was even detained in relation to driver protests at which he himself was not even present.

Let me point out the ILO supervisory bodies have repeatedly stressed the “importance of consulting organisations of employers and workers during the preparation and application of legislation which affects their interests” (ILO CFA, Compilation of Decisions, 6<sup>th</sup> edition, para 536). Further, “the arrest, even if only briefly, of trade union leaders and trade unionists... for exercising legitimate activities in relation with their right of association constitutes a violation of the principles of freedom of association,” enshrined in ILO Convention 87, which India has an obligation to uphold as an ILO member state (ILO CFA, Compilation of Decisions, 6<sup>th</sup> edition, para 121).

I am quite sure that as a member of the United Nations and the ILO, the government of India seeks to uphold its obligations under international law and to find positive solutions to the high level of fatal accidents on Indian roads. Dialogue with trade unions is an essential part of this process. I, therefore, call on you to halt the implementation of BNS 106(1) and (2) and, in its place, promptly initiate a substantive process for consulting with ITF affiliates and other bona fide trade unions within the road transport sector.

Lastly, I wish to take this opportunity to assure you that the ITF holds extensive experience in championing constructive reforms within the road transport sector on a worldwide scale. The ITF stands ready to engage with your government, offering our wealth of expertise in international standards and best practices. We are committed to facilitating social dialogue among industry stakeholders, with the overarching goal of finding a positive resolution to the challenges posed by BNS 106 and contributing to the enhancement of public safety on India’s roads.

Sincerely,



Stephen Cotton  
General Secretary  
International Transport Workers’ Federation