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ABSTRACT

Occupational safety and health are an area involved with protecting the safety, health and welfare of individuals engaged in work or employment. The goals of occupational safety and health programs embody fostering a safe and healthy work environment. This research was to assess the existing situation of occupational health and safety within the country and what measures have been taken to check on them.

After the recommendations of the Second National Commission on Labour, the Ministry of Labour and Employment had introduced the Code, 2020. It was made to consolidate and amend the laws regulating the OSHWC of the persons employed in an establishment. It is one among 3 new labour codes that may consolidate the majority of labour legislation in India and contour labour compliance besides expanding the social security net for employees. The code not only regulates the employment of the workers but also regulates their health, safety and working conditions. It will provide the workers with wage security, social security, safety, health, and grievance redressal mechanisms.

In this article, we briefly spotlight key features of the OSH Code, 2020 together with issues & concerns that were there in the earlier Code, 2019. And we will also examine the international perspective of the ILO standards taken by the different countries for taking care of the health and working conditions of the labourers.

Keywords: Safety, Health, Work Environment, Employees

I. INTRODUCTION

With the increase in the COVID-19 outbreak in the country, migration across the country has been a huge issue. This code was made to repeal and replace the 13 other labour laws relating to the safety, health and working conditions and conjointly aims at regulating the employment of employees, as well as those engaged by contractors, and their operating conditions across sectors. As the government acknowledges that the safety and health of employees encompasses a positive impact on productivity, economic and social development.

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Codification of labour laws is a good and necessary step. It can be fruitful only if done right. The Occupational safety and health working conditions code have received widespread criticism. Thus, it becomes the responsibility of the government to pay heed to this criticism and act upon the drawbacks of the code.

II. BACKGROUND

The Constitution of India provides elaborated provisions for the rights of the citizens and also lays down the Directive Principles of State Policy that set an aim to which the activities of the state are to be guided. The Government is committed to regulate all economic activities for the management of safety and health risks at workplaces and to provide measures to ensure safe and healthy operating conditions for each employee man or woman within the nation.

In 2019, four bills were introduced to consolidate the 29 central laws. These codes were to regulate Wages, Industrial Relations, Social Security, and Occupational Safety, Health and Working Conditions. This bill was initially introduced on 23 July 2019 before Lok Sabha by the Ministry of Labour and Employment which was made to certain changes and brought up again on 19 Sep 2020 and got the President Assent on 28 Sep 2020 and came in force from 29 Sep 2020. The code not only regulates the employment of the workers but also regulates their health, safety and working conditions. It will provide the workers with wage security, social security, safety, health, and grievance redressal mechanisms.

The Ministry of Labour and Employment has its vision towards working conditions and improved quality of life of the workers by ensuring that minimum and no child labour is used in hazardous sectors of the country. The mission of the ministry focuses on implementing policies and schemes and other projects for providing social security and welfare measures, regulating conditions of work, occupational health and safety of workers and promoting skill development and employment services. As prevention is an integral part of economic activities as high safety and health standard at work is as vital as good business performance for new, likewise as existing industries.

III. SALIENT FEATURES OF THE CODE 2020

While the inclusion of women and inter-State migrant workers positively remains the highlight of this new Bill of 2020, another considerable initiative is that the introduction of a single-window mechanism for getting a standard all-India licence for contractors, factories and

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industrial premises for beedi and cigar work that ought to facilitate cut through a number of the functionary procedure that usually surrounds the procurement of such licences. However, simply how much of this can transform to better protection for the industrial labour as well as contribute towards ease of business remains to be seen.

● **The Responsibility of The Government**

The New Code provides for the constitution of a National Occupational Safety and Health advisory board as a consultative body to the Central Government and a similar State Occupational Safety and Health advisory board as a consultative body to the regime on all problems linked by the Code. Whereas the Central Government shall still remain the standards setter, some leeway has additionally been given to the States to create modifications where necessary. The new Code provides some flexibility to the appropriate Government to exempt establishments in special cases or public emergencies or wherever they're attached to public establishments for education, training or research and to create rules then as also to the employers of mines to submit bylaws.

More or less all the powers afforded to the Labour Inspector within the earlier Acts are carried forward to the Inspector-cum-Facilitator beneath the New Code. As per Section 36, the District Magistrate shall be the Inspector-cum-Facilitator so far as mines among their native limits are involved. Qualified medical practitioners could also be appointed as medical officers for providing medical supervision and examination and certification of employees.

**IV. ISSUES AND CONCERNS RELATED TO CODE, 2019**

The main objective of the Code was to modify the laws however it doesn't do this for some of the provisions. Even though the OSH Code was introduced to induce rid of the lacunas within the prevailing labour laws on the same, it still suffers from many limitations of its own:

● Certain definitions are either not made clear or not provided under the code. The rationale behind several specific provisions isn't made clear.

● It doesn't take among its ambit establishments that employ less than 10 employees. On one hand, it may be argued that it's to safeguard small industries against strict and expensive compliance measures. However, on the opposite hand, such exclusion will incentivize some employers to stay with less than 10 employees to avoid compliance.

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In any case, the health and safety of all employees should be a matter of concern for the govt.

● The new code adds the burden of compliance on MSME. It requires the appointment of welfare officers for any establishment that employs more than 250 employees. Earlier, such a requirement was created for establishments that use more than 500 employees. Moreover, the entire IT sector is outside the ambit of the Code.

● It provides grand discretionary powers to the government rather than providing for laws on the matter. It empowers the respective governments to line the required safety standards. Earlier, such a standard was set down by the Factories Act. As more discretion can lead to misuse of power.

● It doesn't offer any judicial mechanism. It bars Civil Courts from seizing matters that are in the scope of the Code. Instead, it provides for alternative authorities for redressal like the Inspector-cum-facilitator.

● Certain provisions of the Code mention wage but the Code fails to outline the same. The lack of a particular definition will result in confusion and misinterpretation of the provisions.

● Some provisions are also seen as facilitating the exploitation of employees. For instance, trainees and apprentices are excluded from the Code although they usually perform tasks allotted to contractual or permanent employees.

● Few other experts have found out flaws in bills that tilt the balance in favour of employers instead of the workers. Confederation of Indian Industry (CII) has acknowledged that the extension of this Code to small enterprises can have adverse impacts on them. RSS-affiliated Bharatiya Mazdoor Sangh has additionally raised its voice against this Code. The Sangh is saying that the Code isn't universal and dilutes safety provisions.

V. CHANGES BROUGHT TO THE CODE, 2020

● The new definition of Employee introduced with wide coverage and the definition of Employer introduced covering Occupier of a factory.

● The limits of female workers working for a creche facility for children under the age group of 6 years, will be increased to 50 from 30.
Earlier the threshold for Appointment of Welfare Officer was 500 workers in a Factory and now it is made to the appointment of a Welfare Officer is mandatory for 250 workers in a Factory, mine, and Plantation.

- The canteen facility was 250 employees reduced to 100 no. of employees.
- Workers working for more than every 20 days will be entitled to an off of one day and an off of the one-day very week.
- Consent and other conditions relating to the safety, holiday and working hours for the female employees working beyond 7 pm till 6 am.
- Employers should not hire any employee in the construction business with defective vision, deafness, or a tendency for giddiness if there’s a risk of an accident.
- The new code 2020 deals with only electronic registration for the establishments.
- Contrary to earlier provisions, women employees are entitled to be employed in all institutions for all sorts of work as well as hazardous processes subject to the conditions that the government might need the employer to provide adequate safeguards before their employment in hazardous or dangerous operations.
- Provision made for mandatory welfare facilities to inter-state migrant workers and entitlement of leave encashment.

VI. INTERNATIONAL PERSPECTIVE ON SAFETY AND HEALTH WORKING CONDITIONS

Since its establishment in 1919, the ILO has set maintained standards and also developed a system aimed at promoting opportunities for women and men to get good and productive work, in conditions of freedom, equity, security and dignity. In today's globalized economy, international labour standards are an important element within the international framework for making certain that the growth of the global economy provides advantages to all.

The ILO sets the ground for which the workers ought to be protected against sickness, illness and injury arising from their employment. However, for varied employees the fact is completely different. According to the most recent International Labour Organization global estimates, 2.78 million work-related deaths are recorded per annum, of which 2.4 million are associated with occupational diseases. Additionally, to the immense suffering caused for workers and their families, the associated economic prices are prodigious for enterprises, countries and also the world. The International Labour Organization has adopted quite forty
standards specifically addressing occupational safety and health, likewise as over forty Codes of practice. Nearly half International Labour Organization instruments deal directly or indirectly with occupational safety and health problems⁵.

- **European Union**

In the European Union, member states have implementing authorities to confirm that the essential legal needs with reference to occupational health and safety are met. In several EU countries, there’s strong cooperation between employer and employee organisations to ensure good OSH performance because it is recognized this has advantages for both the employee and also the enterprise.

Member states of the European Union establish minimum standards on occupational health and safety. These directives follow a similar structure requiring the employer to assess the work risks and place work preventive measures supporting a hierarchy of management. This hierarchy starts with the elimination of the hazard and ends with personal protection instrumentation.

- **Canada**

In Canada, employees are lined by provincial or federal labour codes looking at the sector within which they work. employees lined by federal legislation including those in mining, transportation, and federal employment are lined by the Canada Labour Code; all other employees are lined by the health and safety legislation of the province within which they work. The Canadian Centre for Occupational Health and Safety, an agency of the government of Canada, was formed in 1978. The act was supported with that every Canadians has “a fundamental right to a healthy and safe in operation surroundings.” CCOHS is mandated to promote safe and healthy workplaces to assist prevent work-related injuries and illnesses. The CCOHS maintains a helpful list of OSH laws for Canada and its provinces⁶.

- **United States**

Three U.S. Department of Labour (DOL) agencies have responsibility for the administration and enforcement of the laws enacted to guard the safety and health of workers in America. OSHA conjointly administers the whistle blower Protection program, guaranteeing an employer cannot retaliate by taking "adverse action" against employees who report injuries.

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⁶ About CCOHS, COOHS (Apr. 6, 2021, 08:19 PM) https://www.ccohs.ca/ccohs.html
safety concerns, or other protected activity. The OSHS program produces 3 annual reports:

1. Counts and rates of nonfatal occupational injuries and illnesses by detailed trade and case kind.

2. Case circumstances and employee demographic knowledge for nonfatal occupational injuries and illnesses leading to days faraway from work.

3. Counts and rates of fatal occupational injuries.7

VII. CONCLUSION

Taking care of the health and safety conditions of the employees at the workplace is very important. This will have a direct impact on the working quality of the workers and the work done by them. For making the employees work more productively, a healthy and safe experience at the workplace is the necessity of the time. The government should make sure that the workplace is appropriate for the workers in terms of health and safety. It must fulfil its obligation towards the workers and provide them with equal opportunities for wages as well as a safe and healthy work environment. The government additionally must concentrate on presenting a Code that covers all aspects for all workers regardless of their age, gender, or sector. These facts ought to be taken under consideration by health care managers when developing programs aimed toward safety and health at work. If they are required to enhance the standard of labour, they have to target improving the quality of working conditions.

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