

# A Terminological Study on the Legal Framework of Occupational Safety, Health and Working Conditions Code 2020

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**Abstract:** *'The Occupational Safety, Health and Working Conditions Code 2020' is a code to consolidate and amend the laws which have been normally regulating the working conditions of the persons who are employed in various establishments. This code is a carefully - thought out one in order to ensure safety, security, and good hygiene in work environment. The occupational safety, Health and working conditions Code, 2020 is one of the three labor codes that are framed to condense and consolidate the huge canvas of labor legislation in India and this Code is understood to be streamlining labor compliance in addition to expanding social security network for the workers. The most important function of the new labor code is to ensure uniformity to the process of amendment and implement of labor laws throughout the country. As we are all aware labor laws are subjects which fall under concurrent list, the federal and state governments have to work in tandem with each other in the process of conceiving and implementing labor laws in the true spirit of constitutional values. In the recent times, we have seen several instances of conflict between the state and the centre particularly in the context of interpreting the provisions of labor laws and this goes against the stated objectives of labor laws. Hence, it is recommended that we should have greater sense of clarity with reference to these laws. The convoluted and notifications which are found to be overlapping in their applicability and jurisdiction hamper the spirit of labor laws. It is in this context the Code 2020 has to be placed for our critical review and interpretation. This paper examines the technical aspects of the Code 2020 in order to understand and appreciate the trajectory of evolution of the Code 2020*

**Keywords:** labour laws, contextual reality, occupational safety and Judicial intervention)

## 1. Introduction

The new labor codes have an overriding impact on several labor laws at various levels of government. These labor laws can be classified under four categories for the purpose of convenience so as to clearly delineate the types of legislation they will subsume and their legislative goal. The four codes cover industrial relations, wages, social security and worker health, safety and welfare. These codes are intended to protect the safety, health, welfare of individuals who are engaged in various areas of employment. The purpose of this code essentially is to create an environment which is not only conducive but also safe and peaceful. This research aims at critically evaluating the key features of OSH Code (Occupational Safety Code, 2020) together with issues and implications which were apparently present in the earlier Code, 2019.

### Pandemic Context

The pandemic which struck the world has caused serious implications in our understanding of global realities. This context has deprived many unfortunate ones of their jobs, their right to live with dignity and self - respect. Huge number of people started migrating from one place to another in search of their livelihoods. In this situation, it was felt that a revisit of earlier Code was necessary. As a result of this realization, Code, 2020 was introduced which evidently repealed and replaced 13 other labour laws relating to safety, health and working conditions of our work force. This Code, while regulating the employment of employees, does also regulate the employees engaged by contractors, and their working conditions across several sectors. There is no doubt that health and safety and health of employees assume

paramount importance and they alone ensure productivity and accelerate social development.

The Codification of labour laws, although, is a right step in a direction of change towards ensuring safe environment for the workmen, it will yield its result only when they are implemented with a spirit of commitment to our nation. In this process, the government in power will face huge challenges of responding to criticism by those are skeptical of the provisions of this Code. It is the responsibility of those in power to address the questions and convince the nation that this Code is much sought after one and it will yield its results in the days to come.

### The Contextual Reality

There are innumerable provisions in the Constitution to protect the rights of the citizens and these provisions are clearly outlined in the Directive Principles of State Policy. The government is expected to regulate all sorts of economic activities in order to ensure safety and protection to health at workplaces and it has to provide measures to ensure safe and healthy operating conditions of all those employed in various sectors in the country. It is to be noted that in 2019, four codes were introduced in order to consolidate 29 central laws. These codes were to regulate Wages, Industrial Relations, Social Security, and Occupational Safety, Health and Working Conditions. This was introduced on 23 July 2019 before Lok Sabha by the Ministry of Labour and Employment. This code attracted the attention of the nation and as a result there was so much of pressure exerted on the Government to make certain changes and after having made those changes, the Government brought this bill again on 19 Sep 2020 and got the approval of the President of the Nation on 28 Sept 2020. And this bill has come into force from 29 Sep 2020. This Code, besides regulating the employment of workers in terms

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of protecting their, health, safety and ensuring conducive working conditions, does also ensure workers with wage security, social security, safety, health and grievance redressal mechanism.

The Ministry of Labour and Employment has resolved itself to ensure that decent working conditions are created in workplace and also no child labour is used in hazardous sectors of the country. Much needed care has to be exercised to implement the policies and schemes and other projects in order to provide safety of workers and promote skills and other employment services.

### Highlights of Code 2020

The highlight of this Code is that it includes provisions and features to ensure protection to all including those who fall under inter - state migrant workers category and women. This has provided us a single - window mechanism for getting a standard all - India license for the contractors, factories and industrial premises for beedi and cigar wok which were supposed to go through a number of functionary procedure which usually complicate procurement of such licenses. Still, how far these measure will yield results on the ground is something that is left to our surmises.

The New Code recommends constitution of a National Occupational Safety and Health Advisory Board as a consultative body to the Central Government and similarly State Occupational Safety and Health Advisory Board and Health Advisory Board would serve as a consultative body to resolve all problems related to the implementation of the provisions of the Code. In this context, the Central Government holds the maximum power in terms of defining standards, still, State governments have been given rights to modify wherever necessary based on their own contexts. Also, this code provides certain degree of flexibility to the appropriate Governments to exempt establishments for education, training or research and to create rules for the employers of mines to get themselves submitted to laws. More or less powers which were afforded to Labour Inspector within earlier Acts are no carried forward to the Inspector – cum –Facilitator so far as mines among their native limits are involved. In order to protect the health of the workers involved, qualified medical practitioners could also be appointed as medical officers and these officers are supposed to provide medical services and examination and certification of employees as per the needs and necessities.

### Limitations of Code, 2019

The main objective of this code was to modify the laws, but this objective was not realized for certain practical reasons. The OSH Code, although, was introduced to remove and get rid of some lacunas within the prevailing labour laws, still, it has suffered from many limitations on its own. Among them the following ones are worth mentioning:

At the outset, it is to be mentioned that the Code, 2019 suffers serious limitations because certain definitions mentioned over there or not clear or in some cases certain definitions are not provided under this code. Also, the rationale behind several specific provisions is also not clear. The Code, 2019 does not bring into its ambit the establishments which employ less than 10 employees. Perhaps it is to safeguard small industries

against strict and expensive compliance measures. Still, such exclusions will incentivize some samplers to stay with less than 10 employees to avoid compliance. In either case, health and safety of all the employees should be a matter of utmost concern for the government. But, the new Code adds the burden of compliance on MSME. It requires the appointment of welfare officers for any establishment which employ more than 250 employees. Earlier such a requirement was created for establishments that use more than 500 employees. Also, it is to be underscored here that the entire IT sector is outside the ambit of this Code. This code also provides power of discretion to the government rather than plugging in the loopholes of this Code. It empowers the respective governments frame their own safety standards as per their context and necessity. It is to be mentioned here that earlier similar provisions were made in Factories Act. As a result of this, the governments attempted to use their own power of discretion as per the convenience and this resulted in the abuse and misuse of the power.

### Judicial Intervention

The Code 2019 does not provide for any kind of judicial mechanism. Hence the matters of dispute do not reach the court, but it is resolved through alternative dispute resolution forums wherein Inspector –cum - facilitator would be appointed to decide on the dispute. Also, it is to be underscored here that certain provisions of the Code although have mentioned definition of wage but they have failed to clearly outline the concept in unambiguous terms. And this leads to a lot of confusion and misinterpretations of the provisions. Also, when the provisions are examined in detail, it is very clear the some provisions are also seen to be facilitation the exploitation of the employees. For example, trainees and apprentices are clearly excluded from the Code although they usually perform the tasks allotted to contractual or permanent employees. It is also observed that the tilt of balance is towards favouring employers instead of protecting the unfortunate workforce. Confederation of Indian Industry has already acknowledged that the extension of this Code to small enterprises can have adverse impacts on them. Bharthia Mazdoor Sangh has additionally raised its voice against. The Sangh is also of the opinion that the Code is not universal and it does dilute the provisions of safety.

### Changes brought to the Code, 2020

Code, 2020 has brought in new definitions of Employee which cover wide variety of angles and perspectives and within this Code the definition of employer covers occupier of a factory. And the limits of a female workers working for crèche facility for children under the age group of 6 years shall be increased to 50 from 30. According to the provisions of Code, 2019, the threshold for Appointment of Welfare Officer was 500 workers in a factory and this provision has been changed in the new Code wherein the appointment of a Welfare Officer is mandatory for Factories, mines and plantation fields having 250 workers. The canteen facility which was allowed for 250 employees in a workplace has been changed to 100 employees. The workers working for more than every 20 days will be entitled to an off of one day and off of the one - day every week. Also, consent and other conditions relating to safety, holiday and working hours for the female employees working beyond 7 PM till 6 AM have been made mandatory according to the provisions of new

Code. Employers should not hire in construction business any employee with defective vision, deafness or tendency for giddiness and if there is any risk or accident the employer will be held prima facie responsible for the mishap. The new Code, 2020 insists on electronic registration for the establishments. Also, new code permits the employers to employ women 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 operation. Yet another important and significant provision is that the new Code has provisions made for mandatory welfare facilities to inter - state migrant workers and entitlement of leave encashment.

### Code, 2020: Terminological Issues

As we are aware that Industrial Relations Code, which is a kind of amalgamation of three central laws such as Industrial Disputes Act, 1947, The Trade Unions Act 1926 and The Industrial Employment (Standing Orders) Act 1946 includes various provisions which protect and safeguard workmen and attempt to create amicable conditions wherein smooth operation of work takes place to facilitate economic activity for the interest of larger nation. Within the broad definitions of the term 'workers' this Code has brought in working journalists, sales promotion employee, people who are employed under supervisory capacity and also those whose salary is less than 18 thousand rupees per month. This has broadened the very definition of workers and this will certainly ensure protection of larger category of our society. The term 'employee' refers to any person other than the apprentice (the trainees) under the Apprentice Act, 1961 who has been hired by an industrial establishment to perform any function which requires skills, and as such he may be unskilled, or semi - skilled or manual, operational, supervisory or managerial, technical, administrative or clerical. The terms of employment may be express or implied. The Code expands the definition of employer which includes any person who occupies the factory or where a person has been announced as manager of the factory. Also, the terms includes one who has authority or ultimate control over the affairs of the establishment and where the said affairs are trusted with a manager or a managing director or legal representatives or the contractors of a deceased employer.

### Industry

The term "Industry" does not include institutions which are owned or managed wholly or substantially in any kind of charitable or social or philanthropic service or any activity of the appropriate government which is relatable to sovereign functions of the appropriate Government which also includes the departments of the Central Government which exclusively deal with defence research, atomic energy and space or any domestic service provider or any other activity which may be notified by the Central Government from time to time.

### Industrial Dispute

The term 'industrial dispute includes any dispute or differences which arise between an individual worker and his or her employer due to the discharge, dismissal, retrenchment, termination of such worker within its ambit.

### Fixed Term Employment

The provision of 'fixed - term employment has been introduced in this Code. It means and refers to the engagement of a worker based on a written contract of employment for a fixed period provided that his or her hours of work, allowances, wages and other benefits shall not be less than that of a permanent worker doing the same work or work of similar nature. Also, such a worker shall be eligible for all the statutory benefits available to a permanent worker proportionately according to the period of service rendered by him or her even in the case his or her period of employment does not extend to the qualifying period of employment required in the statute and he or she shall be eligible for gratuity if he or she has rendered services under the contract for one year.

### Strike

The definition of 'strike' has been expanded extensively so as to include the concerted casual leave on a particular day by fifty percent or more workers employed in an industry.

### Trade Union Registration

Any seven or more members seven or more members of a trade union by subscribing to their names can apply for registration to the Authority according to Rules of the Trade Union. Not less than ten percent of the workers or 100 workers, whichever is less, must be members of the Trade Union on the date of making an application for registration. Registered Trade Union shall continue to have not less than ten percent of the workers or one hundred workers, whichever is less. If the name of the proposed Trade Union to be registered is identical with an existing registered Trade Union, alteration of the name needs to be done as asked by the Registrar of Trade Union. Registered Trade Union shall be a body incorporated by the registered name, which has a common seal and perpetual succession with the power to hold property.

"Negotiating Trade Union/Council" is a new provision which has been added in the new code which means that every industrial establishment having registered trade unions shall have a single negotiating union/council (this status will be given to the trade union which has 51% of the employees as a member). In case there is only one registered trade union, then the employer shall recognise that trade union as a sole negotiating council. Also, if there is no trade union registered in an industrial establishment then the employer itself constitutes a negotiating council. This council is responsible for negotiating on said matters with the employer.

### Standing Orders

Industrial establishments with more than 300 or more workers (earlier threshold was 100 workers) on any day during 12 months are required to prepare a standing order on the following matters:

- Workers as classified;
- Manner of intimating to workers for pay - days, hours of work holiday and wage rates Shift Working;
- Conditions and the procedure involved for leave and holidays;
- Attendance; and
- The requirement to enter premises through certain gates, and the liability to search.

**Provisions Related to Lay Off, Retrenchment and Closure**

The Code has waived off the requirement of prior permission from the appropriate government for retrenchment, lay off or closure for establishments such as mines, factories and plantations not less than 300 workers. However, it is not necessary to obtain prior permission in cases wherein such lay - off is due to the reasons such as natural calamity, shortage of power, and in the case of a mine, such lay - off is due to the causes like flood, fire, excess of inflammable gas or explosion. The code makes any lay - off illegal if it is done without permission or it is done even after the refusal of permission. Closure of an establishment requires a 60 days notice to be served to the government, also during retrenchment if a worker has been working for more than 1 year, a 60 days notice or payment in lieu of notice period is prescribed.

**Right to Strike**

The new code prohibits all strikes and lockouts in an industrial establishment without notice. The provision clearly states that every employee is prohibited from going on strike without going an advance notice of 60 days for strike and lockout to the employer. And within a fourteen - day period after giving such notice or before the date given in the notice for strike and lockout expires or when a conciliation proceeding is pending before a conciliation officer and seven days right after the conclusion of such proceedings or when an arbitration proceeding is pending before an arbitrator and 60 days after the conclusion of such proceedings. The above are the conditions upon meeting which strike might be called out.

**Grievance Redressal Committee**

The Code mandates a constitution of one or more grievance redressal committees for industrial establishment having 20 or more workers. This committee shall be constituted with an equal number of representation from the worker and employer. The maximum number of representatives is ten also, the code asks for equal representation of women workers in the committee. Such a committee shall aim to resolve disputes arising out of individual grievances between the workers and employers.

**Implications**

Prohibition of arbitrary strikes and lock - outs Prohibition of arbitrary strikes and lock - outs is a step towards the continuous functioning of industries. Also, the introduction of a sole negotiating council and grievance redressal committee will ensure speedy and amicable dispute resolution between workers and the employer. Though the curb on workers' right to strike has received several criticisms from the labour unions around the country hence, it remains one of the major concerns regarding the IR code. The increased limit (from 100 workers to 300 or more workers) for prior government approval by establishments for lay off and retrenchment may make workers prone to arbitral dismissal from the employment.

**Code on Social Security 2020**

The new code aims at providing security to employees of the organized and unorganized sectors. It extends the benefits to the workers of all sectors. This code has subsumed nine central laws which are as follows:

- 1) The Employees Compensation Act, 1923,
- 2) The Employees State Insurance Act, 1948,
- 3) The Employees Provident Fund and Miscellaneous Provisions Act, 1952,
- 4) The Employees Exchange (Compulsory Notification of Vacancies) Act, 1959,
- 5) The Maternity Benefit Act, 1961,
- 6) The Payment of Gratuity Act, 1972,
- 7) The Cine Workers Welfare Fund Act, 1981,
- 8) The Building and Other Construction Workers Cess Act, 1996, and
- 9) The Unorganized Workers' Social Security Act, 2008).

**Social Security Code: Gratuity**

A gratuity is given by the employer to his/her employee for the services rendered to the employer during the period of employment (to be eligible for gratuity an employee should have been in service for five or more years). A gratuity shall be payable to all the eligible employees by every shop or establishment in which ten or more employees are employed, or were employed, on any day of the preceding twelve months. Some events give rise to gratuities such as superannuation, resignation, retirement, death or disablement due to accident or disease. For working journalists, the term for gratuity payment has been reduced to 3 years from 5 years under the SS code. Fixed - term employees are not required to fulfill the requirement of 5 - year service. Failure by any person to pay the amount of gratuity to the employee who is entitled to it makes it punishable with imprisonment which can extend up to 1 year or with a fine of up to 50 thousand or both.

**Employees Provident Fund**

The code increases the applicability threshold of the EPF scheme to every establishment with 20 or more employees. The employee and the employer both will contribute ten per cent of the wages towards the EPF. The central government may by notification increase the contribution to 12% of the wages for employers and employees of certain establishments. If an employer fails to contribute under the Social Security code, the offence is made punishable.

**Maternity Benefits**

The SS code provides that the maternity benefits shall apply to every shop or establishment having 10 or more employees, on any day of the preceding 12 months; and such establishments as the government may notify. The maximum period for which any woman shall avail maternity benefits shall be twenty - six weeks out of which not more than eight weeks shall precede the expected date of her delivery, but in cases where a woman already has two or more surviving children, she is entitled to maternity benefits for 12 weeks only.

**Social Security Organizations**

The SS code also provides for the establishment of various bodies called social security organizations so that the social security schemes are effectively administered. Some of the organizations include:

**a) Employees' State Insurance Corporation**

This corporation has two committees, first one is a standing committee to administer the affairs and functions of the

committee and to exercise the powers conferred on the committee. The second committee is the medical benefit committee to administer the schemes related to the medical benefits to the employees.

#### **b) National Security Board for Unorganized Workers**

Unorganised workers like gig workers, platform workers etc, are included in the code. The board aims to recommend suitable schemes and monitor social welfare schemes for such workers. The board is constituted for three years.

#### **c) Central Board of Trustees of Employees' Provident Fund**

This board is constituted for the effective administration of the funds. The board can also form one or more committees of the same composition for assistance in the functioning of the board.

Having discussed the background to our Study of Code 2020, it is important to understand the certain influences in global levels which have necessitated this Code. Hence, we will allot a portion here to discuss international perspectives on OSH and how they have influenced our domestic context in terms of helping us with realization of safety and health concerns of our women in general.

#### **International Perspectives**

In this context it is important to consider the international perspectives on Occupational Safety, Health and Working Conditions. There are innumerable evidences that Indian law on OSH is immensely influenced by various factors which include not only our experiences of administering, running and managing our domestic economy but also international experiences. The world conferences, seminars, conventions and forums' recommendations on OSH and more particularly the ILO's recommendations for national frameworks on OSH have influenced Indian perspectives.

For example, our definitions of employee, employer, industry, establishment, hazardous processes, principal employer industrial dispute, wages, and others have been immensely influenced by international law on OSH. It is to be remembered that the human, social and economic costs of occupational accidents, injuries and diseases and major industrial disasters have long been cause for concern at all levels from the individual workplace to the national and international. Measures and strategies designed to prevent, control, reduce or eliminate occupational hazards and risks have been developed and applied continuously over the years to keep pace with technological and economic changes. Yet, despite continuous if slow improvements, occupational accidents and diseases are still too frequent and their cost in terms of human suffering and economic burden continues to be significant.

#### **ILO Report**

A recent ILO report estimated that 2 million occupational fatalities occur across the world every year (ILO, 2003b), the highest proportions of these deaths being caused by work - related cancers, circulatory and cerebrovascular diseases, and some communicable diseases. The overall annual rate of occupational accidents, fatal and non - fatal, is estimated at 270 million (Hämäläinen, Takala and Saarela, 2006). Some

160 million workers suffer from work - related diseases and about two - thirds of those are away from work for four working days or longer as a result. After work - related cancers, circulatory diseases and certain communicable diseases, accidental occupational injuries are the fourth main cause of work- related fatalities. Recent data from the ILO and from the World Health Organization (WHO) indicate that overall occupational accident and disease rates are slowly declining in most industrialized countries (ILO, 2003a) but are level or increasing in developing and industrializing countries.

#### **The Economic Cost**

The economic costs of these injuries and deaths are colossal, at the enterprise, national and global levels. Taking into account compensation, lost working time, interruption of production, training and retraining, medical expenses, and so on, estimates of these losses are routinely put at roughly 4 per cent of global GNP every year, and possibly much more. Overall spending on compensation for a group of OECD countries was estimated at US\$122 billion for 1997 alone, with 500 million working days lost as a result of accidents or health problems. If property losses from accidents, and more specifically major industrial accidents, are included, recent studies suggest that insured losses are in the vicinity of US\$5 billion annually and are on the increase (Mitchell, 1996). Moreover, these figures are based mainly on acute and intensive events and do not include uninsured losses, delayed losses associated with acute events such as oil and other toxic chemical spills, or the environmental impact and losses caused by chronic industrial pollution.

The total annual cost to the EU of work - related injuries and ill health in 2001 was estimated at between €185 billion and €270 billion, or between 2.6 per cent and 3.8 per cent, of the EU's GNP. In comparison, the cost of occupational accidents in Viet Nam for 2006 was estimated at US\$3 billion (Government of Viet Nam, 2006). Box 2 illustrates the costs of occupational safety and health in an industrialized country. Occupational and industrial accidents are all caused by preventable factors which could be eliminated by implementing already known and available measures and methods. This is demonstrated by continuously reduced accident rates in industrialized countries. The application of preventive strategies therefore offers significant human and economic benefits.

#### **Variations in performance**

There are significant variations in occupational safety and health performance between countries, economic sectors and sizes of enterprise.

The incidence of workplace fatalities varies enormously between countries. There appears to be a significant difference between developed and developing countries:

#### **Examples**

- A factory worker in Pakistan is eight times more likely to be killed at work than a factory worker in France
- Fatalities among transport workers in Kenya are ten times those in Denmark
- Construction workers in Guatemala are six times more likely to die at work than their counterparts in Switzerland

Economic sectors OSH performance varies significantly between economic sectors within countries. Statistical data show that, worldwide, the highest rates of occupational deaths occur in agriculture, forestry, mining and construction. The ILO has estimated, for example, that tropical logging accidents cause more than 300 deaths per 100,000 workers. In other words, three out of every 1,000 workers engaged in tropical logging die annually or, from a lifetime perspective, on average every tenth logger will die of a work-related accident. Similarly, certain occupations and sectors, such as meat packaging and mining, have high rates of work-related diseases, including fatal occupational diseases. Sizes of enterprise Generally, small workplaces have a worse safety record than large ones. It seems that the rate of fatal and serious injuries in small workplaces (defined as those with fewer than 50 employees) is twice that in large workplaces (defined as those with more than 200 employees)

### Much Needed International Awareness

Despite this worrying situation, international awareness of the magnitude of the problem remains surprisingly modest. The inadequate dissemination of knowledge and information hampers action, especially in developing countries. It also limits the capacity to design and implement effective policies and programmes. The fatality, accident and disease figures are alarming but investment decisions continue to be made in disregard of safety, health and environmental considerations. In the scramble for capital, the pressures of globalization and increasingly stiff competition tend to deflect attention from the long-term economic benefits of a safe and healthy working environment.

### International Conventions and Recommendations

Conventions and Recommendations on occupational safety and health may serve several purposes, acting as:

- Fundamental principles to guide policies for promotion, action and management;
- General protection measures, for example, guarding of machinery, medical examination of young workers or limiting the weight of loads to be transported by a single worker;
- Protection in specific branches of economic activity, such as mining, the building industry, commerce and dock work;
- protection of specific professions (for example, nurses and seafarers) and categories of workers having particular occupational health needs (such as women or young workers);
- Protection against specific risks (ionizing radiation, benzene, asbestos); prevention of occupational cancer; control of air pollution, noise and vibration in the working environment; measures to ensure safety in the use of chemicals, including the prevention of major industrial accidents;
- Organizational measures and procedures relating, for example, to labour inspection or compensation for occupational injuries and diseases.

### ILO Instruments

Major ILO instruments concerning occupational safety and health in general Roughly half of the 188 Conventions and 199 Recommendations adopted by the International Labour Conference between 1919 and 2007 address, directly or

indirectly, issues of occupational safety and health. General provisions are contained in the following up-to-date instruments:

- Protection of Workers' Health Recommendation, 1953 (No.97)
- Occupational Safety and Health Convention (No.155), and Recommendation (No.164), 1981
- Occupational Health Services Convention (No.161), and Recommendation (No.171), 1985
- Prevention of Major Industrial Accidents Convention (No.174), and Recommendation (No.181), 1993
- List of Occupational Diseases Recommendation, 2002 (No.194)
- Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No.155)
- Promotional Framework for Occupational Safety and Health Convention (No.187), 2006, and Recommendation (No.197), 2006 procedures for the recording and notification of occupational accidents and diseases, and for the publication of related annual statistics.
- The ILO Occupational Health Services Convention (No.161) and Recommendation (No.171), 1985.

### Core principles

Occupational safety and health is an extensive multidisciplinary field, invariably touching on issues related to scientific areas such as medicine – including physiology and toxicology – ergonomics, physics and chemistry, as well as technology, economics, law and other areas specific to various industries and activities. Despite this variety of concerns and interests, certain basic principles can be identified, including the following:

- All workers have rights. Workers, as well as employers and governments, must ensure that these rights are protected and must strive to establish and maintain decent working conditions and a decent working environment. More specifically: — work should take place in a safe and healthy working environment; — conditions of work should be consistent with workers' well-being and human dignity; — work should offer real possibilities for personal achievement, self fulfilment and service to society (ILO, 1984).
- Occupational safety and health policies must be established. Such policies must be implemented at both the national (governmental) and enterprise levels. They must be effectively communicated to all parties concerned.<sup>17</sup>
- A national system for occupational safety and health must be established. Such a system must include all the mechanisms and elements necessary to build and maintain a preventive safety and health culture. The national system must be maintained, progressively developed and periodically reviewed.
- A national programme on occupational safety and health must be formulated. Once formulated, it must be implemented, monitored, evaluated and periodically reviewed.
- Social partners (that is, employers and workers) and other stakeholders must be consulted. This should be done during formulation, implementation and review of all policies, systems and programmes.
- Occupational safety and health programmes and policies must aim at both prevention and protection. Efforts must be focused above all on primary prevention at the

workplace level. Workplaces and working environments should be planned and designed to be safe and healthy.

- Continuous improvement of occupational safety and health must be promoted. This is necessary to ensure that national laws, regulations and technical standards to prevent occupational injuries, diseases and deaths are adapted periodically to social, technical and scientific progress and other changes in the world of work. It is best done by the development and implementation of a national policy, national system and national programme.
- Information is vital for the development and implementation of effective programmes and policies. The collection and dissemination of accurate information on hazards and hazardous materials, surveillance of workplaces, monitoring of compliance with policies and good practice, and other related activities are central to the establishment and enforcement of effective policies.
- Health promotion is a central element of occupational health practice. Efforts must be made to enhance workers' physical, mental and social well - being.
- Occupational health services covering all workers should be established. Ideally, all workers in all categories of economic activity should have access to such services, which aim to protect and promote workers' health and improve working conditions.
- Compensation, rehabilitation and curative services must be made available to workers who suffer occupational injuries, accidents and work related diseases. Action must be taken to minimize the consequences of occupational hazards.

#### Key principles in Occupational Safety and Health

- Education and training are vital components of safe, healthy working environments. Workers and employers must be made aware of the importance of establishing safe working procedures and of how to do so. Trainers must be trained in areas of special relevance to particular industries, so that they can address the specific occupational safety and health concerns.
- Workers, employers and competent authorities have certain responsibilities, duties and obligations. For example, workers must follow established safety procedures; employers must provide safe workplaces and ensure access to first aid; and the competent authorities must devise, communicate and periodically review and update occupational safety and health policies.
- Policies must be enforced. A system of inspection must be in place to secure compliance with occupational safety and health measures and other labour legislation. Clearly, some overlap exists among these general principles. For example, the gathering and dissemination of information on various facets of occupational safety and health underlies all the activities described. Information is needed for the prevention as well as the treatment of occupational injuries and diseases. It is also needed for the creation of effective policies and to ensure that they are enforced. Education and training demand information. While these key principles structure occupational safety and health programmes and policies, the above list is by no means exhaustive. More specialized areas have corresponding principles of their own. Moreover, ethical considerations regarding such matters as individuals'

rights to privacy must be taken into consideration when devising policies.

#### Safety: Human right

The right to safety and health at work is enshrined in the United Nations Universal Declaration of Human Rights, 1948, which states: Everyone has the right to work, to free choice of employment, to just and favourable conditions of work ... (Article 23) The United Nations International Covenant on Economic, Social and Cultural Rights, 1976, reaffirms this right in the following terms: The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular: ... (b) Safe and healthy working conditions ... (Article 7)

#### Key features of a national policy on occupational safety and health

The formulation of the policy should reflect tripartite participation, i. e. there should be inputs from employers' and workers' organizations as well as from government and others involved in the area of occupational safety and health. The policy should be consistent with national development objectives and policies as a whole. The policy should promote the right of workers to decent, safe and healthy working conditions and environment. The policy should include ways of promoting adequate public awareness and eliciting political endorsement at the highest level of government. The policy should promote the development of a national preventive safety and health culture that includes information, consultation and training. The policy should include a plan for mobilizing the necessary institutional and financial resources. Coordination among all concerned institutions should be fostered as an inherent element of the policy. All available means of action should be used consistently.

In short, Occupational Safety Code 2020 has been necessitated by various contexts and those social, economic and political compulsions in addition with the forces of International trade created a condition wherein the government of India thought it would be wise to make changes in our laws so as to accommodate the changing times and to provide our laws with features which would not only protect the business and economic activities but also individuals' rights as guaranteed under our constitution.

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