

Comparative Analysis: A Glimpse at the Changes Introduced by the Occupational Safety, Health and Working Conditions Code, 2020 in Comparison to Previous Regulations

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ABSTRACT

The Occupational Safety, Health and Working Conditions Code, 2020 (hereinafter be termed as The OSHWC Code, 2020) provides one of the most substantial labour law reforms accepted in India. The Code merges thirteen central labour laws managing workplace safety, health, and welfare into a single legislative framework in a united way. The main purpose of the paper is to study and examine the major changes introduced by the OSHWC Code, 2020 and compare them with the guiding rule that existed under the previous scattered labour laws of India. The study highlights the Code's contribution toward the simplification of these laws along with the compliance, enhancement of occupational safety standards, promotion of gender equality, digitalization of labour administration, and protection of migrant workers in India. Simultaneously, it critically examines and evaluates interests regarding execution challenges and potential dilution of worker protections. The paper concludes that while the Code marks a progressive step toward modernization of labour governance, also its effectiveness will depend largely on the enforcement mechanisms and the formulation of comprehensive rules by the Central and State Governments.

Keywords: Occupational Safety, Labour Reforms, Worker Welfare, Health, Workplace Safety.

INTRODUCTION

In India, Labour laws play a critical role in confirming safe and healthy working environments while taking care of and harmonizing the interests of the principle and the agent. Earlier than the enactment of the OSHWC Code, 2020, India's labour regulatory framework consisted of numerous, mainly sector-specific laws enacted at different points in time. These laws every so often contained overlying provisions, inconsistent definitions, and wide-ranging compliance requirements. To address and tackle all such challenges, the Government of India introduced four labour codes aimed at consolidating twenty-nine labour laws into a simplified framework. Among these, the OSHWC Code, 2020 seeks to regulate workplace safety, health standards, welfare requirements, and working conditions across different sectors of working fields and areas. The Code received assent of President on 28 September 2020 and replaced thirteen existing labour laws relating to occupational safety and working conditions in a consolidated and simplified form. The paper undertakes a relative or comparative analysis of the OSHWC Code, 2020 and the previous regulatory framework to assess and determine the extent of reforms or changes introduced and their implications and applicability for employees and employers.

OBJECTIVES OF THE STUDY

1. To scrutinize the salient features of the Occupational Safety, Health and Working Conditions Code, 2020.
2. To identify the major reforms introduced under the Occupational Safety, Health and Working Conditions Code, 2020.
3. To evaluate the benefits and challenges associated with the implementation of the Code.
4. To compare the Code with the earlier labour laws governing occupational safety and health.

RESEARCH METHODOLOGY

The study is based on a doctrinal research methodology. It depends on secondary sources such as government publications, statutes, legal commentaries, research articles, policy papers, and academic literature related to labour law reforms in India. A comparative analysis method has been used to identify differences between the OSHWC Code, 2020 and the previous legislative regulations and framework.

HISTORICAL BACKGROUND

Before the enactment of The OSHWC Code, occupational safety and working conditions were governed by separate acts or legislations such as:

- Factories Act, 1948
- Mines Act, 1952
- Plantations Labour Act, 1951
- Motor Transport Workers Act, 1961
- Contract Labour (Regulation and Abolition) Act, 1970
- Inter-State Migrant Workmen Act, 1979
- Dock Workers Act, 1986
- Building and Other Construction Workers Act, 1996

The above mentioned laws were introduced and enacted to address sector-specific concerns, matters and evolved independently over several decades to work and improve for the betterment of the safe and working conditions of the workers in their respective sectors. Subsequently, employers often had to comply with multiple tasks and regulations like registrations, inspections, and reporting requirements. The Second National Commission on Labour recommended consolidation of labour laws to improve efficiency and ensure uniform standards for both the employees and the employers. The Occupational Safety, Health and Working Conditions Code, 2020 emerged as a result of these situations and recommendations.¹

MAJOR CHANGES INTRODUCED BY THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020

- 1. Consolidation of Thirteen Labour Laws:** One of the most significant reforms introduced by the Code is the consolidation of thirteen central labour laws into a unified comprehensive legislation. Earlier, respective laws regulated different categories of industries. The OSHWC Code removes fragmentation and creates a unified legal framework.
- 2. Common Registration and Licensing System:** Earlier, employers were required to obtain

¹Second National Commission on Labour, Report of the National Commission on Labour (Ministry of Labour and Employment, Government of India, 2002).

multiple registrations and licenses under different labour statutes and regulations. Now the Code introduces a common registration mechanism and a unified licensing system for establishments, industries, contractors and sectors. This reform indeed helps to reduce administrative burden and facilitate ease of doing business.²

3. Enhanced Occupational Safety Standards: The previous laws gave different safety standards according to the different kind of sector or an industry. The new Code establishes a uniform framework for occupational safety and health standards across all kinds of establishments. It also empowers government to prescribe standards relating to physical, biological, chemical, biological, and ergonomic hazards.

4. Inspector-cum-Facilitator System: The labour inspectors primarily performed enforcement functions, under the previous laws and regulations. The Occupational Safety, Health and Working Conditions Code replaces this mechanism with an "Inspector-cum-Facilitator" model which lessen the burden. The new system aims and directs to combine compliance monitoring with guidance and support for employers for their betterment. This shift reflects an improved move from punitive regulation to cooperative compliance.³

5. Expansion of Rights of Inter-State Migrant Workers: The Inter-State Migrant Workmen Act, 1979 offered limited protection to the workers of different states and applied only to workers who were recruited through contractors. The latest Code broadens the definition and characterisation of migrant workers and provides instruments for maintaining databases and facilitating welfare benefits for them. It also envisages movability of benefits and access to public welfare schemes and thus expanding their rights.⁴

6. Employment of Women in All Establishments: Earlier there was restrictions on the employment of women during night shifts in certain sectors as imposed by the previous laws. The Occupational Safety, Health and Working Conditions Code now, permits women to work in all establishments including night shifts, at all the times, subject to safety measures, consent, and prescribed conditions. This change promotes and leads to gender equality and thus increases employment opportunities for women in all the sectors.

7. Digital Compliance and E-Governance: Traditional labour administration was dependent heavily on physical records and manual filing systems, with less or no online system. The new Code promotes electronic registration, submission of returns, maintenance of records, and online inspections leading to digitization of the system. These measures are expected to increase transparency, manual stress and reduce bureaucratic delays.⁵

8. Clearly Defined Employer Duties: The new Code outlines the principal's responsibilities relating to workplace safety, welfare facilities, health measures, reporting of accidents and agent's protection working under their premises. The earlier laws though, also imposed duties on principal, but these obligations were dispersed across different statutes. Here, the Code consolidates them all into a coherent unified framework.

² OSH Code 2020, S. 3.

³ OSH Code 2020, S. 35.

⁴ OSH Code 2020, S. 2(zr).

⁵ OSH Code 2020, S. 33.

9. Recognition of Employee Rights: In comparison to the previous regulations, the new Code grants employees the right to obtain various information like information regarding workplace hazards, report unsafe conditions, and participate in safety-related initiatives etc. Such provisions strengthen and motivate worker participation in occupational health and safety governance and hence providing a better and safe workplace.

Comparative Analysis of Previous Regulations and Occupational Safety, Health and Working Conditions Code, 2020

Aspect	Previous Framework	Occupational Safety, Health and Working Conditions Code, 2020
Definition	Different definitions and standards	Uniform definitions and standards
Legislative Structure	13 separate laws	Single consolidated code
Registration	Multiple registrations	Common registration
Licensing	Sector-specific licenses	Unified licensing system
Safety Standards	Varied across sectors	Uniform standards
Inspection	Inspector-based system	Inspector-cum-Facilitator
Coverage of workers	Different categories of workers were governed by separate statutes.	Creates more uniform coverage of workers across sectors
Migrant Worker Protection	Limited coverage	Expanded coverage and benefits
Women Workers	Restricted night work	Permitted with safeguards
Record Keeping	Manual procedures	Digital compliance
Worker Rights	Scattered provisions	Explicit recognition of rights
Duties and Accountability	Duties were scattered across different laws.	Improves accountability and clarifies legal obligations
Compliance requirements	Overlapping	Simplified

Advantages of the Occupational Safety, Health and Working Conditions Code, 2020

Simplification of Labour Laws:- The formation of new consolidated code of multiple statutes into a single code has reduced the difficulty and complexity, thus facilitating an easier compliance for the employers and the employees.

Uniformity in Standards: There is a uniform and common framework which promotes consistency in occupational safety and health measures among the working force of India across many sectors and industries.

Improved Ease of Doing Business: Many important features and regulations like single registration, electronic compliance mechanisms and licensing reduce administrative costs and encourage formalization resulting in an ease of doing a business or to run an industry.

Better Protection for Vulnerable Workers: The Code strengthens protections and provides safety for migrant labours, contract workers, and women employees working and employed in various sectors by framing regulations for their benefit and improved facilities in their workplace.

Promotion of Technology-Driven Governance: Maintenance of records in a digital mode and online compliance systems improve its transparency and efficiency. Thus, leading to a better keep, maintenance and safety of records.

Criticisms and Challenges: The Occupational Safety, Health and Working Conditions Code has attracted many criticisms from labour unions, employees, scholars, and worker advocacy groups, despite its various advantages and benefits over the previous laws and regulations.

Concern Regarding Threshold Limits: Some experts have shown concern and argue that higher thresholds for applicability may ignore or exclude smaller sectors and establishments from certain legislative and regulatory requirements, thus affecting worker protection potentially.

Implementation Challenges: Successful implementation remains as a challenge and uncertain due to many operational aspects which depends upon the regulations and rules framed by the government of India.

Risk of Reduced Inspections: The facilitative approach and method of inspectors for inspections may reduce the restraining and deterrent effect of strict enforcement mechanisms in the respective sectors.

Capacity Constraints: Many sectors in a state may face difficulties in the establishment of digital infrastructure and thus ensuring its effective compliance monitoring.

Awareness Among Workers: There is a lack of awareness among the workers as a significant percentage of workforce in India is employed in the informal sector and thus may not be fully aware of their rights, duties and benefits under the new consolidated Code.

Conclusion

The Occupational Safety, Health and Working Conditions Code, 2020 marks a drastic and transformative shift in India's labour law rules and regulations. The Code by consolidating thirteen labour laws into a unified framework, seeks to improve occupational safety standards, simplify compliance and enhance worker welfare in their respective sectors. Many significant reforms such as digital compliance systems, common registration, expanded migrant worker protections and their rights, gender-inclusive employment provisions, and mainly the Inspector-cum-Facilitator mechanism demonstrate the government's commitment towards modernizing labour governance effectively without any stress and burden. Although, the final success and compliance of the OSHWC Code depend upon its effective implementation, adequate enforcement, awareness among stakeholders like the employers and the employees, and the development of comprehensive rules. While the Code has the potential to create safer, conducive and healthier workplaces, still continuous monitoring and periodic review will be necessary to ensure its compliance so that the economic efficiency does not come at the expense of worker safety and protection.

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