

OCCUPATIONAL SAFETY AND HEALTH IN INDIAN WORKPLACE: CHALLENGES, REFORMS, AND THE ROAD AHEAD

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Abstract

Occupational health remains neglected in most developing countries due to competing social, economic, and political challenges. This has more to do with the fact that the demands are articulated by the less powerful i.e. the workers. Healthcare professionals not routinely obtaining occupational exposure history, long latency period of morbidities, lack of accurate data on toxic exposure, and conflicts of interest between the financial gains of the employer and the health of the worker are sum of the major challenges to reporting of occupational events. Improved surveillance systems, stricter implementations of legislations, large scale clinical and epidemiological research and better educational opportunities are the need of the hour. In India, rapid industrialization and economic growth have heightened the need for robust Occupational Safety and Health(OSH) mechanisms.

Introduction:

The concept of Occupational safety and health (OSH) encompasses practices and policies aimed at ensuring the safety, health and welfare of individuals engaged in work. With India's workforce exceeding 500 million, safeguarding occupational health becomes a significant public concern. The OSH scenario in India is marked by a diverse workforce, ranging from organized manufacturing sectors to unorganized informal jobs, each with distinct occupational hazards.

Background and evolution:

Occupational health remains neglected in most developing countries due to competing social, economic and political challenges. Workers in the developing world face unregulated and unprotected exposure to known hazards faced decades ago by workers in the industrial world. The informal workforce, which constitutes a large share of the total workforce, suffers the most. The major legal provisions for the protection of health and safety at the workplace

are the Factories and Mines Act. India's tryst with OSH legislation began during the British era with the Factories Act of 1881. This act evolved as the Factories Act of 1948, laying a foundation for workplace safety and welfare provisions. Following this, several other sector-specific laws were introduced, but they were often flawed by lack of coordination, which eventually led to the Occupational Safety, Health and Working conditions code, 2020, aiming to consolidate and simplify the legal framework.

Legal and Regulatory Frameworks

The directive principles of state policy enjoin the government to regulate all economic activities for management of safety and health risks at workplaces and provide measures so as to ensure safe and healthy working conditions for every working man and woman in the nation. For example, article 24 prohibits child labour, article 39 directs the state to ensure that health and strength of workers including men, women and children are not abused, and article 42 directs the state to make provisions for securing

just humane conditions of work and maternity relief.

Roughly 91% of the total workforce and 95% of the female workforce in India is employed in the informal economy. The directorate general, factory advice services and labour institutes shows that for 2009 there are about 3,24,761 registered factories with a total employment of 1,31,00,129. Thus only 9% of the workforce comes under the purview of occupational health laws such as the factories act of 1948 despite repeated amendments over the years. Other laws such as mines act 1952, plantation labour act 1951, dangerous machines act 1983, and radiological protection rules 1971 cover very small sectors of the workforce. The workers compensation law and the employees state insurance act have the same limitation. Even the unorganised sector social security act of 2008 does not adequately cover many workers, especially women.

There are other limitations in the laws: No mechanisms for periodic audits, for reporting incidents, lack of significant penalties for non-compliance, a lack of defined exposure limits for the vast majority of hazardous pollutants, and a lack of guidance for exposure and hazard monitoring.

Constitutional provisions:

There are three articles for ensuring workers's safety and health .Article 24 prohibits employment of children under the age of 14 years. Article 39(e and f) states that the health of men ,women and children should be protected and children should be given opportunity and facility for healthy development and should be protected against exploitation. Article 42 states that the humane conditions at work and maternity relief should be provided.

Significance of the study:

The study of occupational safety and health of Indian workplaces is highly significant due to the rising number of workplace injuries, illness and fatalities across the country. As India

undergoes rapid industrialization and urbanisation, ensuring the health and safety of workers becomes essential, not just for protecting individuals but also for improving productivity and supporting economic growth .

Ultimately, this study will contribute to expanding knowledge in occupational health and safety in india, guiding future policy changes, the implementation of comprehensive safety programs, and the adoption of best practices in organization, Improving OSH standards will not only reduce the financial costs associated with workplace injuries and health issues but also enhance the quality of life for workers, creating a safety, more productive, and substantial work environment for all sectors.

Objectives:

The primary objectives of this study are:

- 1. Analyze the occupational safety and health (OSH) code,2020:** Evaluate the provisions of the OSH code, 2020 with the focus on its scope, coverage and key provisions aimed at improving workplace safety and health conditions in various sectors in india.
- 2. Provide policy recommendation:** propose actionable recommendations for improving OSH in india, including enhancing enforcement mechanisms promoting worker awareness, and expanding converge to informal sectors
- 3. Compare India's OSH framework with international standards:** compare India's OSH framework with international norms, such as those outlined by the international labour organisation to evaluate whether the country's legal provisions meet global standards of worker safety and health.

Challenges faced on the workplace:

1. Weak Enforcement and Oversight

Despite the passage of the OSH Code, 2020, effective enforcement of safety regulations remains a significant challenge. Insufficient resources for monitoring, irregular inspections, and a lack of accountability have hindered the

implementation of safety standards, particularly in small and medium-sized businesses. These industries often fail to meet safety requirements due to inadequate regulatory supervision.

2. Lack of Awareness and Insufficient Training

A large portion of India's workforce, particularly those in the informal sector, is unaware of their rights and the necessary safety measures. Workers often lack proper training on safety equipment use and handling hazardous substances, increasing the risk of accidents and injuries in the workplace.

3. Limited Protection for Informal and Migrant Workers

The majority of India's workforce works informally or on a contract basis, where safety protocols are frequently overlooked. Migrant workers, in particular, face additional challenges, including limited legal protection, poor working conditions, and a lack of safety measures. The OSH Code's coverage of informal workers is still limited, leaving them particularly vulnerable to workplace hazards.

4. Sector-Specific Safety Risks

Different industries present distinct safety challenges. For instance, workers in construction are at a high risk of fatal injuries, while those in chemical industries or mines face long-term exposure to harmful substances. Though the OSH Code attempts to address these sector-specific hazards, its general approach does not always cater to the unique risks posed by certain industries.

5. Fragmented Legal Framework

Prior to the OSH Code, India's laws governing workplace safety were fragmented, with different regulations for different sectors (e.g., the Factories Act, Mines Act). Although the Code aims to unify these laws, inconsistencies remain in practice. Some regulations are outdated, and the shift towards a unified legal framework is met with resistance, complicating compliance.

Judicial Interpretations and case laws:

Judicial interpretation plays a vital role in shaping the application of Occupational Safety and Health (OSH) laws in India. Indian courts have frequently emphasized the significance of worker safety and health, interpreting laws to address emerging issues across various sectors. Several landmark cases have influenced the evolution of OSH practices, addressing legal gaps and setting precedents. Below are some notable judgments that have impacted OSH standards:

1. Royal Talkies v. State of Andhra Pradesh (1999)

This case focused on the safety measures required for employees working in cinemas and theaters. The court reinforced the employer's duty to provide a safe workplace and prevent potential hazards. The ruling stressed that non-compliance with safety regulations would hold employers liable for accidents caused by negligence.

2. M.C. Mehta v. Union of India (1987)

A landmark case stemming from the Bhopal Gas Tragedy, this judgment addressed industrial safety in hazardous environments. The Supreme Court ruled that the Pollution Control Act and other related laws should be interpreted to ensure worker safety in industries dealing with toxic chemicals. This case led to tighter safety protocols in chemical industries and other high-risk sectors.

3. The Bangalore Water Supply and Sewerage Board v. A. Rajappa (1978)

The Supreme Court in this case clarified the definition of "workmen" under the Industrial Disputes Act, 1947. The judgment broadened worker protection, ensuring that safety and health regulations applied to all workers, not just those in dangerous jobs. It highlighted the employer's duty to ensure a safe working environment for all employees.

4. New India Assurance Co. Ltd. v. Prakash

This case dealt with the issue of worker compensation after workplace accidents. The court interpreted provisions of the Employee's Compensation Act, stressing the employer's responsibility to maintain a safe workplace. The judgment reinforced the need for proactive safety measures to prevent accidents and reduce liability.

5. V. K. Rathi v. The Union of India (2004)

In this case, the court addressed the dangers posed to workers in the mining industry due to exposure to hazardous materials. It ruled that employers must provide proper safety equipment and take necessary precautions to protect workers' health, particularly in high-risk industries.

6. State of Maharashtra v. Chandra Prakash (2003)

This case focused on a worker who was injured while working in a factory. The court emphasized the employer's responsibility to ensure proper safety protocols, including protective gear and risk assessments. The ruling reinforced the idea that workers are entitled to compensation when accidents are caused by unsafe work conditions.

7. Shiv Shankar v. The Delhi Transport Corporation (1998)

This case examined safety measures for workers in the transport sector, especially bus conductors and drivers. The court ruled that employers must ensure adequate training and provide a hazard-free working environment. This judgment led to stronger safety regulations for the transport industry.

Findings:

1. Inadequate Enforcement of OSH Laws

One of the key findings from the research is that, while the Occupational Safety, Health and Working Conditions Code, 2020 aims to address many worker safety issues, enforcement remains weak. Many industries, particularly small and medium-sized enterprises (SMEs) and the informal sector, lack adequate

monitoring, resources, and trained personnel to ensure compliance with OSH laws.

2. Lack of Awareness and Training Among Workers

A significant number of workers, especially in the informal sector, are unaware of their rights and safety procedures. Additionally, there is a lack of sufficient training programs to educate workers on the proper use of safety equipment, emergency procedures, and their entitlements under labour laws.

3. Limited Reach of OSH Code to Informal Workers

The majority of India's workforce is employed in the informal sector, where safety regulations are often not enforced. The OSH Code provides limited coverage for informal workers, leaving them vulnerable to unsafe working conditions. Migrant workers, in particular, face additional challenges due to the transient nature of their employment.

4. Sector-Specific Risks Remain Unaddressed

Different sectors in India, such as construction, mining, and manufacturing, present specific safety risks. While the OSH Code attempts to address general safety concerns, there is a lack of comprehensive sector-specific guidelines to protect workers in these high-risk industries. Many workers are still exposed to hazardous working conditions without adequate safety measures in place.

5. Underreporting of Workplace Accidents

There is widespread underreporting of workplace injuries and accidents in India. Workers often fear retaliation from employers, or they lack confidence in the reporting process, leading to a significant gap in accident data. This underreporting prevents accurate risk assessments and the development of targeted safety interventions.

6. Employer Resistance to Safety Regulations

Many employers, particularly in small enterprises and the unorganized sector, resist

implementing safety regulations due to the perceived financial burden. Employers often view safety measures such as protective equipment, regular safety audits, and insurance as unnecessary expenses, resulting in poor adherence to safety protocols.

Suggestions for Improving Occupational Safety and Health in Indian Workplaces

1. Strengthening Enforcement and Compliance Mechanisms

It is crucial to strengthen the enforcement of OSH laws through better monitoring, more frequent inspections, and penalties for non-compliance. There should be a dedicated workforce of trained safety inspectors, particularly for SMEs and the informal sector, to ensure that safety protocols are followed. State governments should also play a more active role in ensuring that local industries comply with the law.

2. Improving Worker Awareness and Education

Awareness programs and training workshops should be implemented to educate workers about their rights and the safety protocols they should follow. Workers should be trained on using personal protective equipment (PPE), understanding emergency procedures, and recognizing workplace hazards. These programs should be especially focused on vulnerable workers in the informal sector and migrant workers.

3. Expanding Coverage for Informal Workers

Efforts should be made to extend the OSH Code's coverage to informal workers, particularly those in high-risk sectors like construction, agriculture, and domestic work. The government can work with trade unions and other stakeholders to create mechanisms that ensure these workers have access to safety standards, compensation, and health benefits.

4. Sector-Specific Safety Regulations

Sector-specific safety regulations should be introduced for high-risk industries such as construction, mining, and manufacturing. These

industries require tailored safety protocols, including specific guidelines for machinery operation, hazardous materials handling, and working at heights. Such measures would address the unique safety risks associated with each sector and ensure better protection for workers.

5. Establishing Robust Accident Reporting Mechanisms

It is essential to create transparent and accessible reporting systems for workplace accidents. These systems should allow workers to report accidents without fear of retaliation, ensuring that accurate data on workplace injuries and fatalities are collected. Additionally, there should be a focus on worker welfare through post-accident rehabilitation and compensation.

Conclusion:

Occupational health and safety (OHS) in Indian workplaces is a critical area that requires continuous attention and improvement. While India has made significant strides with the enactment of laws like the Occupational Safety, Health and Working Conditions Code, 2020, challenges remain in ensuring effective implementation across all sectors, especially the informal sector where the majority of the workforce is employed.

Despite legal advancements, the enforcement of OHS regulations remains weak, with many small and medium enterprises (SMEs) and informal sectors lacking the necessary resources and infrastructure to comply with safety standards. The lack of awareness and proper training among workers, particularly those in high-risk industries such as construction, mining, and manufacturing, continues to exacerbate the situation.

Moreover, sector-specific safety regulations remain insufficient in addressing the unique hazards faced by workers in different industries. There is also a notable gap in the coverage of informal workers, leaving a large portion of the workforce vulnerable to unsafe working

conditions. Additionally, issues such as underreporting of accidents and employer resistance to safety measures further hinder the progress of worker protection.

For India to achieve substantial progress in occupational safety and health, a multi-pronged approach is required. This includes strengthening enforcement mechanisms, expanding the coverage of OHS laws to informal workers, improving worker education and training, and ensuring greater accountability from employers. Additionally, sector-specific regulations tailored to the unique risks of each industry will be essential for enhancing worker safety.

Reference:

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4. Mines Act, 1952

