

## OCCUPATIONAL SAFETY OF CONSTRUCTION WORKERS UNDER THE OCCUPATIONAL, SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020: A CRITICAL ANALYSIS OF IMPLEMENTATION GAPS

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**BEST CITATION** – VYABINYAA SHREE R S, OCCUPATIONAL SAFETY OF CONSTRUCTION WORKERS UNDER THE  
OCCUPATIONAL, SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020: A CRITICAL ANALYSIS OF  
IMPLEMENTATION GAPS, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 6 (5) OF 2026, PG. 444-456, APIS –  
3920 – 0001 & ISSN – 2583-2344.

### ABSTRACT

The construction sector is one of the most hazardous industries, characterized by high rates of accidents, injuries, and occupational diseases. In India, the enactment of the **Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code, 2020)** marked a significant step toward consolidating and modernizing labour laws related to workplace safety. This research critically examines the effectiveness of the OSH Code, 2020 in ensuring occupational safety for construction workers, with a particular focus on implementation gaps. While the Code introduces comprehensive provisions relating to health, safety standards, welfare measures, and employer accountability, challenges persist in its enforcement due to inadequate institutional capacity, lack of awareness among workers, informal employment structures, and weak monitoring mechanisms. The study analyses statutory provisions, existing compliance frameworks, and practical obstacles in implementation. It also highlights the need for stronger regulatory oversight, improved worker training, and enhanced accountability mechanisms. The paper concludes that although the OSH Code, 2020 has the potential to transform workplace safety in the construction sector, its success depends largely on effective enforcement and stakeholder participation.

**KEYWORDS** : *Occupational Safety, Construction Workers, OSH Code, 2020, Labour Law Reforms, Workplace Safety, Implementation Gaps, Informal Sector Worker Welfare.*

### INTRODUCTION

The construction industry plays a vital role in the economic development of India, contributing significantly to infrastructure growth and employment generation. However, it remains one of the most vulnerable sectors in terms of occupational safety and health. Construction workers are frequently exposed to hazardous conditions such as unsafe scaffolding, exposure to dust and chemicals, lack of protective equipment, and long working hours, resulting in a high incidence of workplace accidents and fatalities.

To address these concerns, the Government of India enacted the Occupational Safety, Health and Working Conditions Code, 2020, which consolidates and rationalizes 13 existing labour laws relating to safety, health, and working conditions. The Code aims to ensure a safe and healthy work environment by prescribing standards for working conditions, regulating hours of work, and mandating welfare provisions such as sanitation, drinking water, and medical facilities. It also emphasizes employer responsibility and introduces provisions for inspections, penalties, and compliance mechanisms.

Despite its progressive framework, the implementation of the OSH Code, 2020 faces several structural and practical challenges. A large proportion of construction workers in India are employed in the informal sector, often without formal contracts or social security coverage. This makes it difficult to enforce statutory provisions effectively. Additionally, there is limited awareness among workers regarding their rights, and enforcement agencies often face resource constraints and administrative inefficiencies.

This research seeks to critically analyse the gaps between the legislative intent and practical implementation of the OSH Code, 2020 in the construction sector. It aims to identify key issues such as regulatory shortcomings, lack of compliance, and institutional weaknesses, while also suggesting measures to strengthen occupational safety standards. By examining both legal provisions and ground realities, the study contributes to the broader discourse on labour welfare and workplace safety in India.

### RESEARCH METHODOLOGY

The research methodology adopted for the study titled “Occupational Safety of Construction Workers under the Occupational Safety, Health and Working Conditions Code, 2020: A Critical Analysis of Implementation Gaps” is primarily doctrinal in nature, complemented by a limited empirical approach to enhance practical understanding. The doctrinal method involves an extensive analysis of primary and secondary legal sources. Primary sources include the provisions of the Occupational Safety, Health and Working Conditions Code, 2020, along with relevant rules, notifications, and government reports. Judicial decisions delivered by the Supreme Court and various High Courts relating to labour welfare, occupational safety, and construction workers’ rights are also examined to understand the judicial interpretation and enforcement of safety standards. Secondary sources such as textbooks, law journals, research articles, policy papers, reports of committees, and publications

by organizations like the International Labour Organization (ILO) are reviewed to provide a theoretical and comparative framework.

In addition to the doctrinal analysis, a qualitative empirical method is employed to identify practical implementation gaps. This includes the collection of data through interviews, case studies, and reports concerning construction workers, contractors, and labour inspectors, where feasible. Government data, including reports from the Ministry of Labour and Employment and National Sample Survey Office (NSSO), are also analysed to assess the ground realities of occupational safety practices. The study further adopts a comparative approach by examining international standards and best practices on occupational safety to evaluate the adequacy of the OSH Code, 2020 in the Indian context.

The research is analytical and descriptive in nature, aiming to critically evaluate the effectiveness of the legal framework and identify the gap between law and practice. The methodology focuses on identifying key issues such as lack of enforcement, inadequate awareness among workers, administrative challenges, and deficiencies in institutional mechanisms. Based on this analysis, the study seeks to suggest reforms and policy recommendations to strengthen the implementation of occupational safety laws in the construction sector.

### LITERATURE REVIEW:

Scholarly discourse on occupational safety and health in the construction sector highlights persistent concerns regarding the effectiveness of labour regulation, particularly in developing economies like India. Researchers have consistently identified structural deficiencies such as weak enforcement, informal employment, and lack of safety culture as major barriers to ensuring workplace safety.

**International Labour Organization** emphasizes that the construction sector accounts for a disproportionately high number of workplace

fatalities worldwide, mainly due to poor regulatory enforcement and widespread informality. In the Indian context, **S.C. Srivastava** argues that labour laws cannot achieve their objectives without effective administrative implementation and a strong compliance culture. Similarly, **P.L. Malik** highlights the issue of fragmented enforcement in earlier labour legislations, while **V.G. Goswami** points to the vulnerability of construction workers due to contractual and informal employment arrangements.

Recent academic analyses published by **SAGE Publications and Taylor & Francis** critically evaluate the Occupational Safety, Health and Working Conditions Code, 2020, noting that while it simplifies and consolidates labour laws, it may dilute enforcement through mechanisms such as the Inspector-cum-Facilitator model. Studies also highlight that decentralisation of rule-making to states has led to uneven implementation, affecting uniformity in safety standards.

Empirical research further indicates that informal and migrant workers remain largely outside the effective scope of legal protection due to lack of awareness and weak monitoring systems. Additionally, scholars advocate a shift towards preventive safety approaches using modern technologies, though adoption remains limited in India.

Despite extensive literature, a gap persists in analysing the practical implementation of the OSH Code in the construction sector. This study seeks to address this gap by examining the disconnect between statutory provisions and ground-level realities.

#### OBJECTIVES OF THE STUDY

1. **To examine the legal framework** governing occupational safety of construction workers under the Occupational Safety, Health and Working Conditions Code, 2020.
2. **To analyse the key provisions** of the Code relating to safety, health, and

welfare measures specifically for construction workers.

3. **To identify the implementation gaps** in enforcing safety standards at construction sites in practice.
4. **To evaluate the role of authorities and employers** in ensuring compliance with occupational safety norms under the Code.
5. **To assess the challenges faced by construction workers**, including lack of awareness, inadequate training, and unsafe working conditions.
6. **To study the effectiveness of inspection and monitoring mechanisms** provided under the OSH Code, 2020.
7. **To compare the OSH Code, 2020 with previous labour laws** relating to construction workers (like the Building and Other Construction Workers Act, 1996) to identify improvements and shortcomings.
8. **To suggest practical recommendations and policy measures** for strengthening the implementation of occupational safety standards in the construction sector.

#### SCOPE OF THE RESEARCH

The scope of this research is centered on examining the effectiveness of the Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code) in safeguarding construction workers in India, with a particular focus on identifying and analysing the gaps in its implementation. It covers a detailed study of statutory provisions relating to safety standards, employer obligations, welfare measures, and enforcement mechanisms applicable to the construction sector. The research extends to evaluating how far these provisions are translated into practice at construction sites, especially in terms of compliance, monitoring, and accountability by regulatory authorities. It also includes an

assessment of the challenges faced by workers, such as lack of awareness, inadequate training, informal employment arrangements, and limited access to grievance redressal systems. Further, the study explores the role of government agencies, contractors, and other stakeholders in ensuring occupational safety and examines the impact of socio-economic factors on implementation. By incorporating case laws, policy analysis, and comparative perspectives where relevant, the research aims to provide a comprehensive understanding of the disconnect between legislative intent and ground reality, while suggesting measures for improving enforcement and ensuring safer working conditions in the construction industry.

#### **DEFINITION AND APPLICABILITY UNDER OSH CODE, 2020**

The Occupational Safety, Health and Working Conditions Code, 2020 provides a broad legal framework applicable to various sectors, including the construction industry. Under the Code, the term “worker” includes any person employed in an establishment to perform skilled, semi-skilled, or unskilled manual, technical, or clerical work for hire or reward, whether directly or through a contractor.<sup>1</sup> This definition is particularly significant for construction workers, as a large portion of them are employed through contractors or subcontractors in informal arrangements.

The Code applies to establishments employing a minimum number of workers as prescribed, and it covers sectors involving hazardous activities, including construction.<sup>2</sup> Importantly, the Code subsumes the earlier Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, thereby bringing construction workers within a consolidated legislative framework.<sup>3</sup> However, the wide prevalence of informal employment in the construction sector often results in exclusion from formal registration, thereby limiting the applicability of the Code in practice. Thus, while the OSH Code provides a comprehensive legal definition and scope, its

effective applicability to construction workers remains dependent on proper identification, registration, and enforcement mechanisms.

#### **MEANING OF CONSTRUCTION WORKERS UNDER THE OSH CODE, 2020**

Under the **Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code)**, the term “construction workers” is not defined in a single standalone clause, but is understood through the combined reading of statutory definitions relating to building workers and building and other construction work.<sup>4</sup> The Code adopts and expands earlier labour law concepts to ensure broader coverage of workers engaged in construction activities

Section 2(1)(d) of the OSH Code defines “**building and other construction work**”<sup>5</sup> as:

Any work in connection with the construction, alteration, repairs, maintenance or demolition of buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment, navigation works, flood control works, dams, canals, reservoirs, waterworks, tunnels, bridges, viaducts, pipelines, towers, transmission lines and such other works.

From this definition, a **construction worker** can be understood as any person employed to perform labour in relation to such construction activities.

Further, Section 2(1)(l) defines an “**employee**”<sup>6</sup> as any person employed on wages by an establishment, either directly or through a contractor, to do skilled, semi-skilled, or unskilled work. This includes manual, supervisory, technical, or clerical work.

#### **IMPORTANT SECTIONS OF THE OSH CODE, 2020 (RELEVANT TO CONSTRUCTION WORKERS)**

##### **SECTION 3: REGISTRATION OF ESTABLISHMENTS**

Section 3 of the Occupational Safety, Health and Working Conditions Code, 2020 mandates compulsory registration of establishments employing workers. This provision ensures that every establishment comes within the regulatory framework, enabling monitoring,

inspection, and enforcement of safety standards. In the construction sector, registration is crucial because of the temporary and mobile nature of worksites.

However, a major implementation gap exists as many construction establishments operate without registration to avoid compliance obligations. This leads to invisibility of workers and denial of statutory protections.

The importance of identifying and protecting unregistered workers was emphasized in *Bandhua Mukti Morcha v. Union of India*,<sup>7</sup> where the Supreme Court held that the State has a duty to ensure that even informal workers are protected under labour laws.

#### SECTION 4: APPLICATION FOR REGISTRATION

Section 4 provides the procedure for applying for registration of establishments. Employers are required to submit necessary details electronically or otherwise as prescribed. This provision promotes transparency and ease of compliance.

Despite this, contractors often bypass registration procedures due to lack of strict enforcement and monitoring. This weakens the regulatory mechanism and allows unsafe construction practices to continue unchecked.

The Supreme Court in *People's Union for Democratic Rights v. Union of India*<sup>8</sup> highlighted that procedural non-compliance by employers cannot deprive workers of their fundamental rights.

#### SECTION 5: NOTICE OF CERTAIN ACCIDENTS

Section 5 requires employers to notify authorities about specific incidents and operational details. This ensures transparency in industrial operations and enables regulatory oversight.

In practice, many construction employers fail to comply with notification requirements, thereby avoiding scrutiny and accountability.

The principle of employer accountability was reinforced in *M.C. Mehta v. Union of India*

(*Oleum Gas Leak Case*)<sup>9</sup>, which emphasized strict responsibility in hazardous activities.

#### SECTION 6: DUTIES OF EMPLOYER

Section 6 imposes a statutory duty on employers to ensure a safe working environment. This includes providing PPE, safety training, and hazard-free conditions.

However, in the construction industry, employers often neglect these duties due to cost-cutting practices and fragmented contractual arrangements.

In *Consumer Education and Research Centre v. Union of India*,<sup>10</sup> the Court held that occupational safety is part of the right to life under Article 21.

#### SECTION 11: NOTICE OF DANGEROUS OCCURRENCES

Section 11 of the Occupational Safety, Health and Working Conditions Code, 2020 mandates employers to report any dangerous occurrence at the workplace, even if such occurrence does not result in injury or death. This provision reflects a preventive approach to occupational safety by recognizing that near-miss incidents are early indicators of systemic hazards. In the construction sector, dangerous occurrences may include collapse of scaffolding, failure of lifting machinery, electrical short circuits, or structural instability. Timely reporting allows authorities to investigate root causes and implement corrective measures before a major accident occurs.

However, in practice, such occurrences are rarely reported due to fear of penalties, reputational damage, or disruption of work. This undermines the preventive framework of the OSH Code. Judicial recognition of preventive safety obligations can be seen in *M.C. Mehta v. Union of India (Oleum Gas Leak Case)*,<sup>11</sup> where the Supreme Court emphasized strict liability and the need for industries to anticipate and prevent hazards.

## SECTION 12: NOTICE OF OCCUPATIONAL DISEASES

Section 12 requires employers to notify authorities regarding any occupational disease contracted by workers. This is particularly relevant in construction activities where workers are exposed to dust, chemicals, and hazardous materials leading to diseases such as silicosis, asbestosis, and respiratory disorders. Reporting ensures medical intervention, compensation, and policy responses.

Despite this, occupational diseases are significantly underreported due to lack of awareness, inadequate medical diagnosis, and informal employment arrangements. Workers often do not associate long-term illnesses with workplace exposure. The Supreme Court in *Consumer Education and Research Centre v. Union of India*<sup>12</sup> held that the right to health and medical care is an integral part of Article 21, thereby imposing a duty on employers to safeguard workers from occupational diseases.

## SECTION 13: DUTIES OF EMPLOYEES

Section 13 imposes duties on employees to take reasonable care for their own safety and that of others, comply with safety standards, and use protective equipment provided by the employer. This provision introduces shared responsibility in maintaining workplace safety.

However, in the construction sector, compliance is often limited due to lack of training, illiteracy, and absence of proper supervision. Workers may not use safety equipment not out of negligence but due to ignorance or discomfort. In *People's Union for Democratic Rights v. Union of India*,<sup>13</sup> the Supreme Court acknowledged that workers in vulnerable conditions cannot be expected to assert or even understand their rights effectively without state intervention.

## SECTION 14: RIGHTS OF EMPLOYEES

Section 14 guarantees employees the right to obtain information about workplace safety, report unsafe conditions, and seek redressal without fear of retaliation. It reflects a rights-based approach to occupational safety.

In reality, construction workers rarely exercise these rights due to fear of dismissal, lack of unionization, and economic dependency. The Supreme Court in *Bandhua Mukti Morcha v. Union of India*<sup>14</sup> emphasized that the State must actively protect vulnerable workers and ensure that their fundamental rights are not rendered illusory.

## SECTION 18: OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Section 18 empowers the Central Government to prescribe detailed occupational safety and health standards. These standards regulate working conditions, equipment safety, and hazard prevention mechanisms across industries.

While the provision is comprehensive, its implementation is weak due to lack of enforcement machinery and inspection capacity. Construction sites often operate without adherence to prescribed standards. The importance of enforcing safety norms was highlighted in *M.C. Mehta v. State of Tamil Nadu*,<sup>15</sup> where the Court stressed strict compliance in hazardous occupations.

## SECTION 22: SAFETY COMMITTEES AND SAFETY OFFICERS

Section 22 mandates the constitution of Safety Committees and appointment of Safety Officers in certain establishments. These committees are intended to ensure worker participation in safety management.

In practice, such committees are either non-existent or ineffective in construction sites. Worker participation remains minimal due to lack of awareness and fear of employer retaliation. In *Workmen of Meenakshi Mills Ltd. v. Meenakshi Mills Ltd.*,<sup>16</sup> the Supreme Court emphasized the importance of worker involvement in decisions affecting their welfare.

## SECTION 23: WELFARE FACILITIES

Section 23 requires employers to provide welfare facilities such as drinking water, sanitation, washing facilities, and rest areas.

These are essential for maintaining health and dignity at the workplace.

However, construction sites frequently lack these basic amenities. This results in poor living and working conditions for workers. Judicial recognition of welfare as a fundamental right is evident in *Occupational Health and Safety Association v. Union of India*.<sup>17</sup>

#### **SECTION 24: WORKING CONDITIONS**

Section 24 ensures humane working conditions, including ventilation, cleanliness, and safe infrastructure. These provisions aim to uphold dignity of labour.

In practice, construction workers often operate in hazardous and unhygienic environments. The Supreme Court in *Bandhua Mukti Morcha v. Union of India*<sup>18</sup> linked humane working conditions with fundamental rights under Article 21.

#### **SECTION 25: DAILY AND WEEKLY WORKING HOURS**

Section 25 regulates daily and weekly working hours to prevent overwork and fatigue.

In the construction sector, workers often exceed prescribed limits due to economic pressures and lack of enforcement. The Court in *Sanjit Roy v. State of Rajasthan*<sup>19</sup> held that exploitative labour practices violate constitutional protections.

#### **SECTION 26: WEEKLY AND COMPENSATORY HOLIDAYS**

Section 26 provides for weekly rest and compensatory holidays. These provisions are essential for worker health and productivity.

However, such benefits are often denied in construction employment. In *People's Union for Democratic Rights v. Union of India*,<sup>20</sup> denial of statutory benefits was treated as a violation of fundamental rights.

#### **SECTION 27: OVERTIME WAGES**

Section 27 mandates payment of overtime wages for extra work.

Despite this, workers are frequently denied overtime pay. In *Sanjit Roy v. State of Rajasthan*,<sup>21</sup> the Supreme Court held that payment below statutory standards amounts to forced labour.

#### **SECTION 34: INSPECTOR-CUM-FACILITATOR**

Section 34 introduces the concept of Inspector-cum-Facilitators to promote compliance through guidance.

This shift from strict inspection to facilitation has been criticized for weakening enforcement, especially in informal sectors like construction. The need for effective enforcement was emphasized in *State of Gujarat v. Hon'ble High Court of Gujarat*.<sup>22</sup>

#### **SECTION 35: POWERS OF INSPECTOR**

Section 35 grants inspector's powers to enter, inspect, and examine workplaces. These powers are crucial for ensuring compliance.

However, underutilization of these powers due to administrative inefficiency weakens enforcement mechanisms.

#### **SECTION 36: DUTIES OF INSPECTOR**

Section 36 outlines the duties of inspectors, including advising employers and ensuring compliance. The effectiveness of these duties depends on institutional capacity, which remains inadequate in many regions.

#### **SECTION 37: SPECIAL POWERS IN CASE OF DANGER**

Section 37 empowers authorities to take immediate action in case of imminent danger, including stopping work. Despite this, delayed intervention often results in preventable accidents in construction sites.

#### **SECTION 38: SEALING OF ESTABLISHMENT**

Section 38 allows authorities to seal or close establishments that pose serious safety risks. However, this provision is rarely invoked due to administrative reluctance and economic considerations, thereby reducing its deterrent effects.

## **IMPLEMENTATION GAPS IN THE CONSTRUCTION SECTOR:**

While the OSH Code, 2020 provides a comprehensive statutory framework, its effectiveness in the construction sector is significantly undermined by gaps between legal provisions and their practical enforcement. They are :

### **Structural Informality vs Registration Requirement:**

The OSH Code, 2020 mandates compulsory registration of establishments under Sections 3 and 4 in order to bring employers and workers within the formal regulatory framework. However, the construction sector in India is largely characterized by informal employment, where workers are engaged through contractors without written agreements or proper documentation. This informality makes it difficult to identify, register, and regulate both establishments and workers. Many employers deliberately avoid registration to escape compliance obligations such as providing safety measures and welfare benefits. As a result, a substantial portion of the workforce remains outside the protective scope of the Code, thereby defeating its objective of universal coverage.

### **Weak Enforcement of Employer Duties:**

Section 6 of the OSH Code imposes a statutory duty on employers to ensure a safe working environment, including the provision of personal protective equipment, safety training, and hazard-free conditions. Despite this clear legal obligation, enforcement on the ground remains weak. In the construction sector, employers often neglect safety measures due to cost considerations and lack of strict monitoring by authorities. Basic safety equipment such as helmets, gloves, and harnesses are frequently not provided or not properly used. This reflects a significant gap between the legal duties imposed by the Code and their actual implementation.

### **Ineffective Reporting Mechanism:**

The Code requires employers to report dangerous occurrences and occupational diseases under Sections 11 and 12 as part of a preventive safety framework. However, in practice, there is widespread underreporting of accidents in the construction sector. Employers often fail to report incidents to avoid penalties, compensation liabilities, and regulatory scrutiny. This leads to inaccurate data regarding workplace hazards, which in turn hampers effective policymaking and enforcement. The failure to implement these reporting provisions weakens the overall safety monitoring system envisaged under the Code.

### **Dilution of Inspection Mechanism:**

Sections 34 to 36 introduce the concept of Inspector-cum-Facilitators, shifting the approach from strict inspection to facilitation and advisory functions. While this model aims to simplify compliance and reduce harassment of businesses, it has also led to reduced enforcement intensity in high-risk sectors such as construction. Inspections are often infrequent, and follow-up actions are limited, which reduces the deterrent effect on non-compliant employers. Consequently, unsafe practices continue without significant regulatory intervention, highlighting a gap in the enforcement mechanism.

### **Failure in Implementation of Welfare Provisions:**

Section 23 of the OSH Code mandates the provision of basic welfare facilities such as drinking water, sanitation, rest areas, and medical aid. These are essential for ensuring the health and dignity of workers. However, many construction sites fail to provide even these minimum facilities, particularly in smaller projects or informal setups. The absence of such basic amenities indicates poor enforcement of welfare provisions and reflects a clear disconnect between statutory requirements and ground realities.

### **Limited Effectiveness of Safety Standards:**

Section 18 empowers the government to prescribe occupational safety and health standards applicable across sectors. Although such standards are in place, their implementation in the construction sector remains inconsistent. Construction sites often fail to comply with prescribed safety norms, such as proper scaffolding, safe handling of machinery, and protective measures against hazards. This is largely due to weak monitoring mechanisms and lack of technical expertise among enforcement authorities, resulting in ineffective application of safety standards.

### **Non-Functional Safety Committees:**

The OSH Code provides for the constitution of Safety Committees and appointment of Safety Officers under Section 22 to ensure worker participation in safety management. However, in practice, such committees are rarely constituted at construction sites, and even where they exist, they are often ineffective. Workers are generally not involved in safety-related decision-making due to lack of awareness and fear of retaliation. This undermines the participatory approach envisaged under the Code and limits its effectiveness in improving workplace safety.

### **Working Hours and Overtime Violations:**

Sections 25 to 27 regulate working hours, weekly holidays, and overtime wages to prevent exploitation and ensure worker well-being. However, in the construction sector, these provisions are frequently violated. Workers often work long hours without adequate rest or proper overtime compensation, primarily due to economic pressures and lack of enforcement. This indicates that statutory protections relating to working conditions are not effectively implemented in practice.

### **Challenges in Fixing Liability under Contractual Employment:**

Although the OSH Code recognizes employment through contractors, it does not fully address the complexities of multi-layered contracting

systems in construction projects. The involvement of multiple contractors and subcontractors creates ambiguity in determining responsibility for safety compliance. In many cases, liability is shifted between different parties, resulting in a situation where no single entity is held accountable. This gap in practical enforcement weakens the effectiveness of safety provisions under the Code.

### **Lack of Awareness vs Rights:**

Section 14 provides workers with the right to obtain information about safety conditions and report unsafe practices. However, most construction workers are unaware of these rights due to illiteracy, language barriers, and lack of awareness programmes. Without proper knowledge of their rights, workers are unable to demand compliance or report violations. This significantly reduces the effectiveness of the rights-based framework established under the Code.

### **Institutional Capacity Constraints Affecting Overall Implementation**

The implementation of the OSH Code depends heavily on the capacity of enforcement agencies. However, labour departments often face shortages of trained personnel, inadequate funding, and lack of technical expertise. These institutional limitations hinder effective monitoring, inspection, and enforcement of the Code's provisions. The dynamic and temporary nature of construction sites further complicates these challenges, leading to inconsistent enforcement across regions.

### **CONSTRUCTION-SPECIFIC OCCUPATIONAL HAZARDS AND CHALLENGES:**

#### **High-Risk Nature of Construction Activities:**

The construction industry is inherently hazardous due to the nature of activities involved, which include working at heights, operating heavy machinery, handling

hazardous materials, and functioning in unstable environments. These conditions expose workers to a high degree of physical risk on a daily basis, significantly increasing the likelihood of accidents, injuries, and fatalities. Although the Occupational Safety, Health and Working Conditions Code, 2020 prescribes safety standards under Section 18, the practical enforcement of these standards remains inconsistent, thereby failing to adequately mitigate these risks.

#### **Risk of Falls and Lack of Protective Equipment:**

One of the most common causes of accidents in the construction sector is falling from heights, often due to defective scaffolding, absence of safety harnesses, and inadequate protective equipment. Despite the statutory obligation imposed on employers under Section 6 of the OSH Code to provide a safe working environment and necessary safety gear, these requirements are frequently ignored in practice. This reflects a clear gap between legal provisions and their actual implementation on construction sites.

#### **Machinery-Related Hazards and Inadequate Training:**

Construction work involves the use of heavy machinery such as cranes, lifts, and drilling equipment, which pose significant risks if not properly handled. Accidents frequently occur due to lack of training, poor supervision, and absence of safety protocols. While the OSH Code emphasizes employer responsibility for ensuring worker safety, the failure to provide adequate training demonstrates weak compliance with statutory obligations and highlights deficiencies in enforcement mechanisms.

#### **Exposure to Occupational Diseases:**

Construction workers are regularly exposed to dust, chemicals, and excessive noise, leading to long-term occupational diseases such as silicosis, respiratory disorders, and hearing impairment. Sections 11 and 12 of the OSH Code require reporting of dangerous occurrences

and occupational diseases; however, these conditions are often underreported or ignored. This lack of implementation not only affects worker health but also undermines the preventive framework of the legislation.

#### **Temporary and Mobile Nature of Worksites:**

Unlike factory settings, construction sites are temporary and frequently change locations, which creates challenges for continuous monitoring and enforcement. This dynamic nature makes it difficult for regulatory authorities to conduct regular inspections and ensure compliance with safety standards. Although the OSH Code provides for inspection mechanisms under Sections 34 to 36, their effectiveness is limited in practice due to the transient nature of construction activities.

#### **Vulnerability of Migrant Workers:**

Migrant labour constitutes a significant portion of the construction workforce and faces unique vulnerabilities. These workers often lack access to social security benefits, live in poor conditions, and face language and cultural barriers. Despite the rights granted under Section 14 of the OSH Code, such workers are often unaware of their entitlements and are reluctant to report unsafe conditions due to fear of job loss. This highlights a gap between the rights-based framework of the Code and its practical accessibility.

#### **Poor Welfare Infrastructure at Construction Sites:**

The OSH Code mandates the provision of basic welfare facilities under Section 23, including drinking water, sanitation, rest areas, and medical aid. However, many construction sites fail to provide these essential amenities, particularly in informal or small-scale projects. This reflects a failure in enforcing welfare provisions and indicates a significant disconnect between statutory requirements and ground-level realities.

### **Cost-Cutting Practices and Employer Negligence:**

Economic considerations often influence employer behaviour in the construction sector, where safety measures are frequently viewed as additional costs rather than essential obligations. Contractors may prioritize project deadlines and profit margins over worker safety, leading to inadequate provision of protective equipment and training. This attitude undermines the effectiveness of the OSH Code and reflects a weak compliance culture.

### **Interaction Between Sectoral Risks and Implementation Gaps:**

The unique characteristics of the construction sector—such as informality, mobility, and contractual employment structures—intensify the challenges in implementing the OSH Code. While the legislation provides a comprehensive framework, its effectiveness is limited by the inability to address sector-specific realities through targeted enforcement strategies. As a result, construction workers continue to face unsafe working conditions despite the existence of legal safeguards.

### **Need for Targeted and Sector-Specific Enforcement:**

In light of these challenges, it becomes evident that a uniform legal framework alone is insufficient to address the complexities of the construction sector. Effective implementation of the OSH Code requires targeted strategies, stricter enforcement, and active participation of both employers and workers. Without such measures, the gap between legislative intent and practical outcomes will continue to persist.

### **KEY RECOMMENDATIONS**

#### **1. Strengthening Enforcement Mechanisms:**

The government should enhance the capacity of enforcement agencies by increasing the number of trained Inspector-cum-Facilitators and ensuring regular and surprise inspections at construction sites.

#### **2. Mandatory Registration and Digital Monitoring:**

All construction establishments and workers should be mandatorily registered through a centralized digital platform to ensure transparency, accountability, and effective tracking.

#### **3. Awareness and Training Programmes:**

Comprehensive awareness campaigns and safety training programmes should be conducted to educate workers about their rights, duties, and safety practices under the OSH Code, 2020.

#### **4. Strict Penalties for Non-Compliance:**

Strong penal provisions must be strictly enforced against employers and contractors who fail to comply with safety standards, to create a deterrent effect.

#### **5. Strengthening Worker Participation:**

Safety Committees should be effectively implemented with active involvement of workers to promote participatory governance in workplace safety.

#### **6. Focus on Informal and Migrant Workers:**

Special measures should be taken to include informal and migrant construction workers within the regulatory framework by providing identity cards, social security benefits, and access to grievance redressal mechanisms.

#### **7. Improvement of Welfare Facilities:**

Authorities must ensure strict compliance with provisions relating to drinking water, sanitation, medical facilities, and rest areas at construction sites.

#### **8. Use of Technology in Safety Management:**

Adoption of modern technologies such as digital inspection tools, real-time monitoring systems, and predictive safety analytics should be encouraged to improve compliance.

### 9. Clear Accountability in Contracting System:

Legal provisions should be strengthened to fix liability on principal employers in cases of safety violations involving contractors and subcontracts.

#### CONCLUSION:

The Occupational Safety, Health and Working Conditions Code, 2020 represents a landmark reform in India's labour law regime, aiming to consolidate and modernize the legal framework governing workplace safety. In the context of the construction sector, the Code provides a comprehensive structure encompassing employer obligations, safety standards, welfare provisions, and enforcement mechanisms. On paper, it reflects a progressive shift towards ensuring safer and more dignified working conditions for one of the most vulnerable segments of the workforce.

However, this study demonstrates that the effectiveness of the OSH Code is significantly constrained by persistent implementation deficits. The dominance of informal employment, fragmented regulatory enforcement, and weak institutional capacity continue to undermine the realization of statutory protections. The transition from a strict inspection regime to the Inspector-cum-Facilitator model, although aligned with ease of doing business, raises serious concerns regarding dilution of enforcement in high-risk industries such as construction.

Moreover, the structural characteristics of the construction sector—including temporary worksites, multi-layered contracting systems, and reliance on migrant labour—pose inherent challenges to regulatory oversight. These factors not only complicate monitoring but also dilute accountability, leaving workers exposed to unsafe conditions despite the existence of legal safeguards. The continued absence of adequate welfare facilities, safety training, and reporting mechanisms reflects a stark disconnect between legislative intent and ground reality.

Judicial pronouncements have consistently affirmed that occupational safety is an integral component of the right to life under Article 21 of the Constitution. Despite this constitutional backing, enforcement remains inconsistent and often ineffective. The issue, therefore, is not merely one of legislative insufficiency but of governance failure and lack of compliance culture.

In conclusion, while the OSH Code, 2020 holds transformative potential, its success ultimately depends on the State's ability to ensure robust enforcement, strengthen institutional mechanisms, and bring informal workers within the ambit of legal protection. Without addressing these structural challenges, the promise of safe and secure working conditions for construction workers will remain largely aspirational rather than real.

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