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WOMEN AND OCCUPATIONAL SAFETY: SPECIAL PROVISIONS UNDER THE OSH CODE, 2020

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ABSTRACT

Over the last few decades, the Indian labour force has seen a shift as more women are stepping into fields that were once considered male-only. These jobs can be quite dangerous, such as mining, construction, manufacturing, chemical industries, and other physically demanding areas. Economic changes, better education, and policies that promote gender inclusion have all played a role in this transition. As women are increasingly entering these risky jobs, it's important to focus on the specific needs and challenges they face. Jobs with hazards involve physical, chemical, and biological risks. For women in these hazardous jobs, these risks can be even greater if there isn't a strong safety culture, adequate safety equipment, facilities designed for women, and social norms that don't value women's work or overlook their safety. That's why it's so important to have safety practices that consider gender. This ensures that basic safety and health standards are met and that workplaces are designed to be more inclusive for women. To keep up with these changes and bring together different labour laws, the Government of India created the Occupational Safety, Health and Working Conditions (OSHC) Code, 2020. This comprehensive law aims to bring together and update workplace safety standards across different industries. This master law combines 13 current labour laws related to occupational safety, health, and working conditions into one set of rules. It applies to workplaces with a certain number of employees in various sectors. What's great is that the OSHC Code acknowledges women's presence in hazardous jobs and provides legal protection for them. It also aims to improve the work environment by setting working hours, night shift rules, and standards for sanitation and hygiene. However, how well the Code works depends on how well it's enforced and followed across the country. This paper looks closely at the safety of female workers in hazardous jobs, using the OSHC Code, 2020, as a guide. We'll explore the Code's rules, find areas where it could be improved, and compare it to other laws.

INTRODUCTION

The well-being of the working class, including their health, working conditions, and safety, has always been a priority, not just for businesses but for the entire nation. To address these concerns, the government introduced the "Occupational Safety, Health and Working Conditions Code 2020" (hereinafter referred to as OSH Code, 2020). This code sets standards for working conditions, health and safety

measures, and special protections for women. It also combines 13 existing laws. One key aspect of this code is the concept of "consent" for women working beyond regular hours. This article examines the meaning of "consent" and considers whether these provisions are beneficial or problematic for women in the workplace. The term "consent" includes elements like voluntary agreement, informed decision-making, written documentation, and

the right to withdraw consent without consequences. However, challenges such as lack of awareness, mental pressure, and inconsistent enforcement can weaken these protections, potentially leading to exploitation of women. Sec43 of the code gives women the freedom to work beyond the working hour. Sec43 makes it mandatory for employers to take consent of women before assigning them to work at night shift. Although the code has not been implemented so far, but states like Haryana, Odisha, Telangana, Madhya Pradesh, Tamil Nadu, Andhra Pradesh, Himachal Pradesh, Uttar Pradesh have established rules that are in line with sec43 of the code. The rules encourage diversity at workplace. The provisions that prohibit employment of female employees in night shifts have been considered to be violating their right to work and denying them equal opportunity as their male counterparts.⁸An important provision under the code is related to the word “consent” of women working beyond regular working hours. This article delves into the interpretation of word “consent” as the code does not define it, and explores whether these provisions are a boon or a curse for women at workplace. The word “consent” encompasses within itself some essentials like voluntary mutual agreement, educated decision-making, express documentation, and the ability to cancel the consent without any repercussions. On the other hand, challenges such as lack of awareness, mental coercion, uneven enforcement mechanism can undermine these protections provided under the OSH Code, 2020, thus exposing the women to exploitation. This article explores the legal and also the practical implications of all these essential elements, whether they truly benefit women or they inadvertently create new challenges, thereby offering a comprehensive analysis of the OSH Code’s impact on women’s rights and safety in the workplace. The article also discusses about the responsibilities of employers in maintaining compliance with this code and the role of

regulatory authorities in monitoring adherence to these provisions.

Key Provisions of the OSHWC Code, 2020 Related To Women’s Safety

The Occupational Safety, Health and Working Conditions (OSHWC) Code, 2020 signifies a significant advancement in reforming and rationalizing India’s labour laws, particularly in the context of women’s safety at work. The Code professionalizes 13 central labour laws into a unified instrument to establish an integrated standard across all sectors. Several provisions address women’s safety and working conditions when employed in hazardous occupations, reflecting a contemporary and inclusive approach.

Women safety in Hazardous Occupations

Hazardous occupations are typically jobs or work environments where workers face significant risks to their lives, health, or safety. For example, they might be exposed to dangerous processes, materials, or conditions, such as toxic and corrosive chemicals, heavy machinery, extreme temperatures, or physically demanding and dangerous work. Under the previous Factories Act/Bill in 1948 (now part of the OSHWC Code 2020), hazardous manufacturing and heavy industries were included under specific processes. However, the Code has introduced a new Schedule of Hazardous Processes, which provides a more modern classification of guidelines. Historically, sectors like mining and quarrying, construction, manufacturing, chemical plants, ship breaking, and heavy engineering have been considered hazardous occupations due to the potential risks of accidents and health hazards. These sectors have been referred to as hazardous occupations. Even though they have traditionally been male-dominated and there has been some reluctance at the national level to diversify, more women are now entering these occupations for economic reasons, programs designed specifically for women to learn skilled trades, and social change (which might be part of significant social change). We

can see more female workers employed in mining, construction, the extensive study of brick kilns, textile factories, and other physically demanding and dangerous work. In the past, Indian labour laws had some rules that made it harder for women to work in dangerous jobs. For instance, the Mines Act and the Factories Act³ said women couldn't work in underground mines or for night shifts in certain industries. The Second Schedule of the Code outlines a listing of hazardous processes and sectors. Women can work in these sectors, but section 43 of the Code outlines, any work in the hazardous sector shall be subject to conditions set by the appropriate government to protect women workers. This includes obtaining the consent of the woman worker, and notifying the government on the employment arrangements.

Working Hours and Night Shifts

The Occupational Safety, Health and Working Conditions Code is the latest and most thorough set of laws that protect women working the night shift. It brings together thirteen different labour laws into one big rulebook that covers workplace safety, health, and working conditions for everyone in different jobs⁸⁷⁵. This code sets some important regulations for the employer who make the women to work in night shifts. Initially, they need to get the workers consent before giving them night shift duties. This makes sure women have a say in their jobs and are not forced to work hours they are not comfortable with. Then employers should make sure that everyone is safe, which means having safe places to get picked up and dropped off, enough light in the workplace, especially near the restrooms and other areas, and good security. And at last, they need to follow the rules and regulations of the Sexual Harassment of women at workplace act, including having good internal complaints committees. The codes also says that employers should take care of health and well-

being, like giving medical help, having restrooms and making sure there are enough breaks between shifts. For mines that are underground, they need to have at least three women working at the same time, so women are not working alone in potentially dangerous underground places. These rules are based on what we have study on other states have done this and what works best from real-life experience. Starting November 21,2025, the Occupational Safety, Health and working Conditions Code is going to be in place, which is a big change in how Indian labour law works.. The Code has lifted the previous absolute prohibitions on women's shift work during the night. Section 43 allows for women to work between the hours of 7 PM and 6 AM, subject to certain conditions. Firstly, there has to be the consent of the woman in WRITING. Secondly, the area has to be Supervised at all times by a female, Thirdly, there must be safe transportation, lastly, there has to be adequate lighting & security.⁸⁷⁶

- Secure transportation facilities for pickup and drop-off.
- Adequate lighting throughout the workplace.
- Appropriate security arrangements.
- Compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), including the maintenance of functional Internal Complaints Committees (ICCs).

Welfare Measures: The OSH Code also requires employers to provide health and welfare provisions such as medical aid, restrooms, reasonable rest intervals, and, for certain industries like below-ground mines, mandates a minimum number of women employees on duty at any given time to prevent isolation.

⁸⁷⁵ PRS Legislative Research. (2025). Draft Rules under Occupational Safety, Health and Working Conditions Code, 2020. Available at: <https://prsindia.org/billtrack/draft-rules-under-occupational-safety-health-and-working-conditions-code-2020>.

⁸⁷⁶ Section 43 of OSHWC 2020

Implementation: The nationwide implementation of the OSH Code standardizes these provisions, superseding previous state-level regulations and ensuring uniform application across India.

Sexual Harassment Prevention Framework Supporting Night Shift Safety for Women Staffs

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 provides important protections for women employees working in all shifts including night hours⁸⁷⁷. The Prevention of Sexual harassment prevention act, which often call the POSH act, came about because of Supreme Courts intervention in Vishaka v. State of Rajasthan ⁸⁷⁸it created to tackle the ongoing issue of workplace sexual harassment, especially for women who work in tough situations, like those on night shifts. The POSH act covers sexual harassment pretty broadly, meaning it includes anything from unwanted physical contact and advances to demand for sexual favours, sexual favours, sexually charged comments, showing pornography, and any other unwelcome physical, verbal, or non-verbal behavior that is sexual nature this should be monitored by the sexual harassment committee in the establishment. This ensures the women staffs safety in workplaces. As said every company with ten or more employees needs to set up an internal complaints committee to handle sexual harassment complaints. This committee should be led by a senior woman employee and include at least two members who are dedicated to women's issues or have experience in social work, plus one external member from a non-governmental organization who knows about sexual harassment. If a company has fewer than ten employees, they can use Local complaints committees that are set up the district level.

Sanitary and Hygiene Facilities OSHWC 2020

Section 23 states that there should be adequate lighting & ventilation, comfortable temperature, and working sanitation facilities that involves separate lavatories for women in all workplaces. This is even more important for workers in unsafe occupations⁸⁷⁹, as the lack of formal hygiene facilities can worsen health concerns. Ideally, the Code will detail the provision of clean drinking water, waste disposal, lavatories, and lavatories that are proportional to the number of woman workers. The employer is responsible for maintaining health, safety, and working conditions in their establishment, as prescribed by the Central Government.

The Central Government may prescribe various measures to ensure these conditions, including:

1. Cleanliness and hygiene
2. Adequate ventilation, temperature, and humidity control
3. A dust-free environment, free from noxious gases, fumes, and other impurities
4. Proper humidification, ventilation, and cooling of workrooms
5. Access to potable drinking water
6. Adequate space to prevent overcrowding and provide sufficient room for employees or other persons employed there
7. Adequate lighting
8. Separate latrine and urinal facilities for male, female, and transgender employees, maintained in a hygienic manner
9. Effective waste and effluent treatment arrangements
10. Any other appropriate arrangement deemed necessary by the Central Government.

⁸⁷⁷ Ministry of Women and Child Development. (2013). The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

⁸⁷⁸ Vishaka v. State of Rajasthan" is (1997) 6 SCC 241.

⁸⁷⁹ SECTION 23 OF OSHWC 2020

Transport and Safety Infrastructure Requirements for Night Shifts

Employers must ensure women's safety during night shifts. Transportation security is crucial since women traveling to and from work at night are more vulnerable. North state rules and the national occupational safety, health, and working conditions code require employers to provide safe transportation. These rules typically mandate close pickups and drop-offs near workers' homes, rather than asking women to travel far. Recently, state rules have incorporated tech-savvy safety measures, such as Jharkhand's 2025 rule requiring GPS tracking on all transport vehicles for women employees during night shifts. This allows for real-time monitoring of vehicle locations and quick response to issues or wrong turns. Additionally, workplace safety includes the physical environment, ensuring adequate lighting in all pathways to restrooms, water, and common areas to prevent accidents and security issues in dark areas. Restrooms and washrooms should be conveniently located near women's work areas to minimize exposure to potentially unsafe parts of the workplace.

Suggestions and Way Forward

To truly connect with the OSHWC Code, 2020, and ensure women's safety in potentially harmful jobs, we need a thoughtful, multi-faceted approach that considers gender. While the Code outlines important safety duties, we need more specific actions to protect, empower, and involve women in workplace safety decisions. Many workplace risk assessments don't take into account the unique challenges women face, such as exposure to toxins, ergonomic issues, or health problems related to sanitation. We need tools that specifically look at risks from a gender standpoint and check out facilities like restrooms, changing rooms, and rest areas for women in dangerous jobs. To make sure we're following the Code properly, we need to use effective ways to keep an eye on compliance, like following the Code of Practice with a gender

lens, doing surprise checks, and taking action against those who don't follow the rules. Being open about how well we're doing and sharing this information by sector, including how women are represented, helps everyone stay accountable and makes sure we're following the rules. The OSHWC Code gives Safety Committees at big workplaces some power, but it's really important to include women and make sure their voices and experiences are part of the decision-making process. Women should also have the chance to lead on the Committee. Giving women a say on the Committee lets them share their thoughts and helps them guide and shape how we handle workplace issues related to water and gender in terms of policy and practice.

Conclusion

Women have entered the most dangerous occupations and professions across the economy- mining, construction, manufacturing etc. This caused for a much-needed gendered approach to workplace safety. Safety is multi-faceted, and encompasses dignity, equality and empowerment in addition to being physically safe. Women understand their health, ergonomic and social vulnerability differently- it is critical that we acknowledge these concerns if we want people to be able to develop more inclusive and effective policies. The Occupational Safety, Health and Working Conditions (OSHC) Code, 2020 is a meaningful legislative advancement in the context of safety. It represents a move away from an archaic protectionist agenda to a more rights based, progressive framework that recognizes women as colleagues. The OSHWC Code has examined the varied pathways women enter different workplaces, and at different hours, and protects women's rights on matters related to sanitation, transportation and consent to employment.

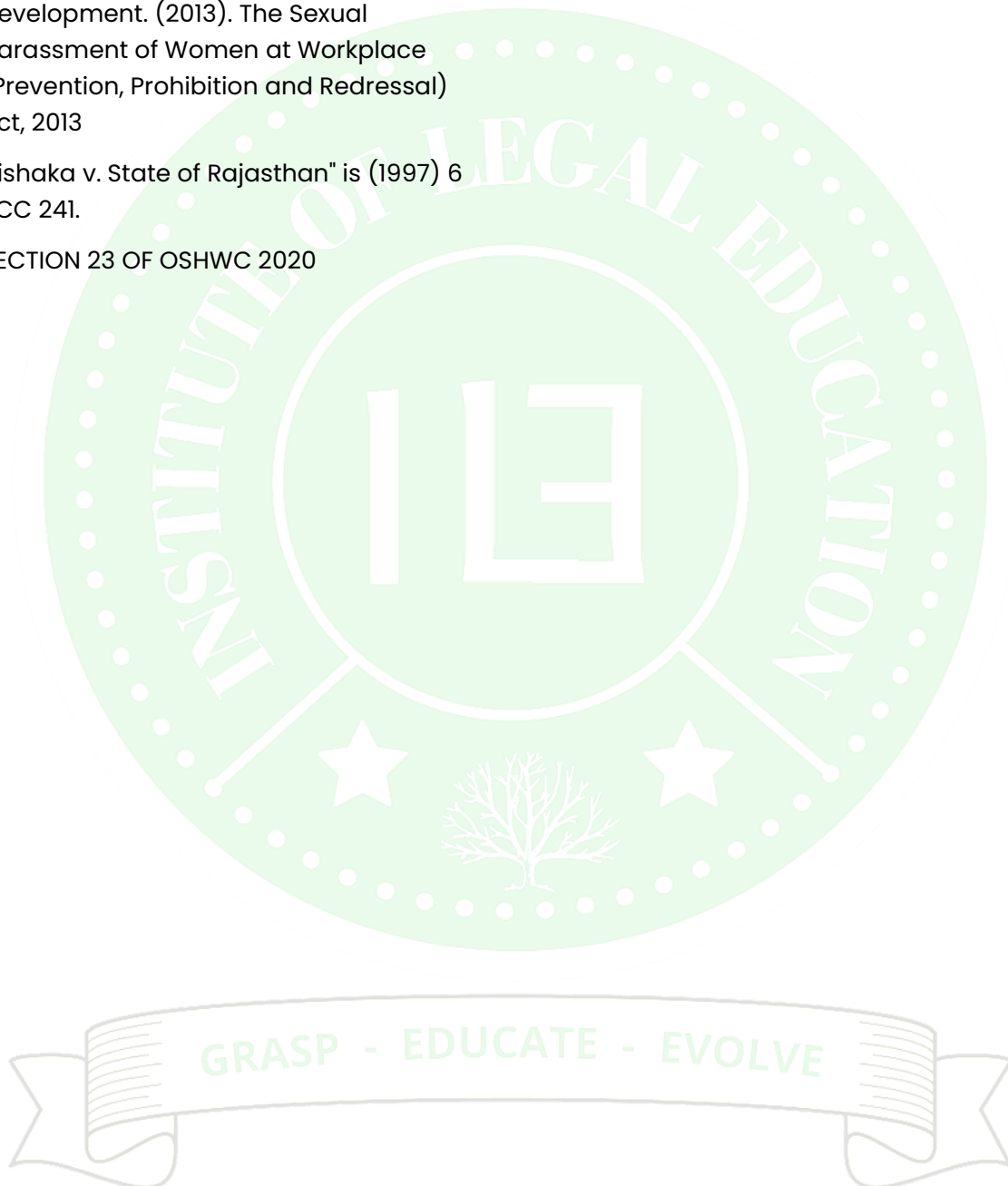
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2. Section 43 of OSHWC 2020
3. Ministry of Women and Child Development. (2013). The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
4. Vishaka v. State of Rajasthan" is (1997) 6 SCC 241.
5. SECTION 23 OF OSHWC 2020





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