

A REVIEW OF INTERNATIONAL STANDARDS FOR OCCUPATIONAL SAFETY AND HEALTH

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There is legitimate concern over worker safety issues across the world, as well as an international thrust to make the workplace safer. In this context, organizations such as the International Labour Organization and the U.S. Occupational Safety and Health Administration have published several important documents that provide guidelines to ensure the maximum safety at work in different environments. Whereas, implementing these international provisions and standards in different countries could be desirable, it should be remembered that the ground realities in terms of existing national standards, local laws and customs, technology levels, and availability of implementation protocols across the world are quite different. Therefore, certain changes will need to be made before such guidelines can be adopted as part of the legal framework in any country. By undertaking a literature survey, this paper reviews some of the existing international conventions and then examines the relevant legislative applications in the Indian context, with an aim to see what would be suitable for India. It was found that the loopholes in laws and lack of regular inspections for various reasons, result in widespread ignorance of occupational safety across different stakeholders. From the study, it is recommended that setting up a national task force and central regulatory body, improvement of awareness levels, streamlining of inspections and audits and fast-tracking legal proceedings would be critical for developing and implementing improved industrial safety standards.

Keywords: Labour, Safety, Protection, Legislation.

1 INTRODUCTION

Around 160 million workers suffer from diseases and injury related to their job or profession, and about 2 million deaths annually are directly or indirectly attributed to the conditions at the workplace (Dorman 2000). These causalities have far reaching consequences and the importance of minimizing them to the extent possible cannot be over-emphasized. It is in this backdrop that Occupational Safety and Health (OSH) issues have attracted international concern, and there is a concerted effort to make job sites safer. Organizations such as the International Labour Organization (ILO) and the U.S. Occupational Safety and Health Administration (OSHA) have published several important guidelines to ensure the maximum safety at work in different environments, which includes suggesting frameworks defining the roles and responsibilities of the different stakeholders including government agencies, workers, and employers. While it is desirable that the international provisions be implemented uniformly across the world, the on-ground situation, in terms of national laws, standards and wherewithal for implementation, may

differ widely (Dejoy and Southern 1993). Consequently, there is a need to modify these guidelines to bring them in line with legal framework in a country.

This paper reviews some of the prevalent international standards and conventions and further examines their applicability in the Indian context. The treatment is such that the conclusions could be useful in other similar contexts internationally.

2 UNDERSTANDING OCCUPATIONAL SAFETY AND HEALTH

International Occupational Hygiene Association defines OSH as “the science of anticipating, recognizing, evaluating and controlling health hazards at the workplace with the objective to protect workers health and wellbeing and safeguard the community at large.” The following paragraphs briefly discuss the outline of the roles and responsibilities of the employees and employers and emphasize the importance of teamwork in ensuring a safe workplace.

2.1 Responsibility of Employers for a Safe and Healthy Workplace

It is incumbent upon the employer to provide a safe workplace to the employees, which includes (a) ensuring that all equipment is safe and free of any risk, (b) workers are appropriately trained, and (c) workers are provided with the required PPE. The employer also needs to ensure proper administrative mechanisms to ensure safety measures are being followed at all levels to eliminate any hazards arising out of any or many lapses. The work hours and the schedule of work also need to be appropriately regulated by the employer to avoid fatigue to the workers that could cause an accident.

2.2 Workers' Rights and Responsibilities in Regard to OSH

The workers are directly affected by a mishap or an unsafe workplace, and therefore need to be clearly aware of the dos and don'ts to ensure their own safety. Whereas on the one hand they have the right to demand a safe workplace, on the other it is their duty to conduct themselves responsibly, which includes taking care of their PPE, being adept at using the PPE, educating and motivating fellow workers, abiding by the norms of housekeeping at the worksite, and making efforts to keep the work place hazard free.

2.3 Teamwork as a Pillar of Workplace Safety

The involvement of workers as well as their representatives in the planning and implementation of safety protocols from the start to the end is the key to safety at the workplace. It needs to be realized that safety is of paramount importance not only for the company but also for the workers' own good. It is only the joint effort of the worker and the company that can yield the desired results.

3 INTERNATIONAL LABOUR STANDARDS (ILS) IN THE GLOBAL ERA

Globalization has had a profound impact on the work environment across countries: Whereas industrialized countries are setting up factories in the less industrialized world (and use local workers), the workers from the latter are also moving to the industrialized world in search of jobs. Provisions in guidelines of the ILO notwithstanding, the future of ILS depends mainly on the interaction and joint action of all stakeholders – the workers, employers, and regulators and/or governments (Garg 2020). The following paragraphs briefly examine the importance of examining the labour laws within the perspective of globalization:

- a) **Economic Internationalization:** Globalization is inclusion of economic activities between neighbors through markets. Multinational companies have become the driving force of globalization that has allowed the expansion of markets and encouraged movement of labour across national boundaries.
- b) **Obstacles to working standards:** Although the economy is globalizing, labour structures remain largely domestic (national). This has complicated the scenario of application of ILO standards across the globe, and there is need to make changes in the local procedures by appropriate legislation, etc. by the national authorities.

4 IMPORTANT GUIDELINES AND CONVENTIONS OF OSH

ILO has issued about 40 standards dealing with different aspects of OSH, including labour inspection, informal economy, gender mainstreaming, and many more. Some of these conventions under the ILO are briefly discussed in the following paragraphs.

4.1 Conventions on Occupational Safety and Health

4.1.1 Promotional framework for OSH convention, 2006 (No. 187)

This is aimed at promoting acknowledgment of the conventions on occupational safety. It also promotes the inception and adherence to national policies on the topic through various means of interaction between the government, the workers, and the employer (ILO 2021).

4.1.2 Occupational Safety and Health Convention, 1981 (No. 155)

This aims at providing a seamless national policy and various actions to be taken at government level and within a company for enhancing the work conditions. The said policy was evolved with respect to the national status and patterns being followed. The convention also aims at timely analysis of prerequisites and process for the transcription and reporting of periodical statistics related to OSH.

4.2 Safety Conventions on Economic Activity

4.2.1 Hygiene (Commerce and Offices) Convention, 1964 (No. 120)

This aims at preventing accidents and maintaining the health, safety and wellbeing of the workers involved mainly in the office work by various means of cleanliness and hygiene.

4.2.2 Occupational Safety and Health (Dock Work) Convention, 1979 (No.152)

This convention aims at providing guidelines for workers involved in works associated with loading or unloading of ships in docks and harbours. It includes any work incidental thereto, and their safety and management in the workplace, including the sites within the vicinity of any port. It also covers any work in connection with the preparation of ships or other vessels for receipt or discharge of cargo. It further covers various associated hazards related to movement of ships and lifting machinery. The need to recognize hazards and work towards their elimination through constant supervision are emphasized.

4.3 Protection Against Specific Risks

4.3.1 Radiation Protection Convention, 1960 (No. 115)

This governs the basic need of protecting the workers from the risks of the ionising radiations, and also addresses or caters for unforeseen incidents at a workplace with radiation hazards.

4.3.2 Occupational Cancer Convention, 1974 (No. 139)

This addresses mitigation of risk of cancer arising out of the job-related extended exposure to harmful agents and chemicals at the worksite. This mandates periodic determination, regular inspection and reduction of carcinogenic substances and agents.

4.3.3 Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)

This convention ensures the worksite is not polluted with hazards from air, noise or vibration at the workplace, and lists different means of checking and inspecting the site to ensure safety.

5 ILS IN THE INDIAN SCENARIO

Article 39-43 of Indian Constitution directs the state to formulate regulations to ensure healthy and hygienic working conditions. Second National Commission on Labour (2002) (NCL) was set up in 1999 and had found existing legislation on labour are “complex, with archaic provisions and inconsistent definitions” (Team Samajho 2020). In certain aspects, though, the provisions on issues such as minimum employment standards, working conditions and safety, etc., the labour laws in India are in line with those in the richer and more industrialized societies, but the lack of awareness, application and enforcement often confines these provisions only to the books (Yasir 2016). The following could be some of the reasons for poor OSH conditions in India.

5.1 Ignorance of Occupational Safety

Apart from other casualties that could be classified under OSH, there are approximately 48,000 deaths at construction sites alone in India every year (Olazabal 2019). This clearly highlights the need to lay more emphasis on making the workplace safer and a *de novo* approach, based on analysis of industrial and workplace safety. In this context, the Government has tried to consolidate several central labour laws into four codes, with one of them being the Occupational Safety, Health and Working Conditions Code, 2019 (OSHWCC) (Lexlife India 2020a). Given that the legislation has just been enacted, it is clear that any lacunae and further shortcomings will be addressed over time. For example, apart from drafting issues, the treatment of OSH is not comprehensive and does not provide the expected clarity in the direction for decision making, reliability of inspections, or appropriate enforcement mechanisms.

5.2 Absence of a Central Regulatory Body

The absence of a regulatory body at the central government level allows the industries to circumvent regulations and avoid repercussions. The state governments have been given freedom to enact and enforce regulations in the states through respective inspectorates of factories that often face severe manpower issues in ensuring implementation of regulations.

5.3 Poor Awareness Among the Stakeholders

Awareness levels regarding OSH among both the workers and employers is very low. The workers are unaware of the advantages that accrue from various government schemes. They are exploited by their employers and denied welfare measures guaranteed to them by the government. The employers ignore the regulations to avoid the expenditure on improvement in occupational safety (Sardana 2012).

5.4 Lack of Regular Inspections

Inspection of working conditions by the Inspectorate of factories are neither carried out regularly nor in the prescribed manner. The workload on individual inspectors is massive and leaves them unable to meet the expected standards of inspection (Sundar 2020).

5.5 Lack of Structured Training

Though there are educational institutes in India to train workers in different trades, the emphasis is generally on skill development and not on issues relating to OSH. The focus of these training institutions is on development of vocational skills among the workforce. There is only a passing mention of 'Occupational Safety' in the curricula of these institutions, and similarly at the work place, too, neither employers nor supervisors place emphasis on it.

6 THE WAY AHEAD

To improve the overall OSH environment in India, changes are needed at various fronts and the following sections give a summary of measures that could be initiated.

6.1 Comprehensive Legislation

Clause 4.1.9 of the National Policy on Safety, Health and Environment at Workplace, requires the state to legislate on Safety, Health and Environment at workplaces. Therefore, comprehensive legislation covering all sectors of economic activities and other industries is needed. Given the federal nature of governance in the country, there may be some mandatory clauses across states, and other clauses individual states can suitably modify depending on existing local conditions.

6.2 Setting up of a Central Regulatory Body

There is a need to set up an independent central regulatory body with its offices at state level to regulate compliance of OSH laws at all levels. The functioning of Central Pollution Control Board with its state units could be used as a model for creating such a body (Lexlife 2020b).

6.3 Awareness Programs

Awareness drives need to be launched through government and other platforms to educate the workers about their entitlements and provisions in government schemes. Employers also need to be educated on the need to practice OSH at workplaces. The possibility of creating a system of incentives and disincentives may be actively explored to bring all stakeholders on board.

6.4 Training

There is an urgent need to improve numbers and competence of persons engaged in OSH program implementation. Investment in setting up of training institutes across the country for

periodic training and upskilling of workers will improve the present situation manifold. Development of a structured curriculum for these training programs could be the beginning in this direction (Singh 2018).

7 CONCLUSIONS

The International Labour Organisation (ILO) encourages voluntary adoption of their standards by countries. The countries are permitted to apply modifications to ILO's global labour standards to suit local conditions. This is the favoured approach rather than giving power to the ILO to develop international laws pertaining to labour. The actions and steps various countries take related to ILO standards depend to a large extent on their initiative and their ability to achieve improved safety and health in the workplace. Consequently, economic downturns deeply affect the application of internationally accepted labour standards. In general, the adoption and implementation of labour standards as put out by the ILO have been subdued by globalization and international competition. This paper looked at the challenges in improving the safety environment in India, and made suggestions to improve safety management in the country. It is expected that similar steps can be taken in other developing countries across the world.

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