

India and ILO Standards on Occupational Safety and Health: An Overview

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Abstract

Promotion and protection of safe and healthy conditions of work for the workers has been a constant objective of the International Labour Organisation (ILO) since its establishment in 1919. ILO in its constitution has set forth the principle that workers should be safeguarded from sickness, injury and disease arising from their employment. Several workers die due to work related diseases and accidental fatalities. ILO estimates that every year 2.78 million workers die due to occupational fatalities and work-related diseases. The serious repercussion of worker's death will be on their families and society. ILO has implemented sound preventive measures to prevent any kind of harm to the workers during work. Hence several standards through Conventions and Recommendations have been enforced by the ILO on Occupational Safety and Health (OSH) of workers. This paper summarises various Conventions, protocols and Recommendations of ILO such as Occupational Safety and Health Convention, 1981, Protocol to the Occupational Safety and Health, 2002, Occupational Safety and Health Recommendation, 1981, Occupational Service Recommendation, 1985 etc. Further, this paper focuses on the ratification of these conventions by India for the safety of workers.

KEYWORDS: ILO, Occupational Safety and Health, Standards, Conventions, Recommendations.

“And whereas conditions of labour exist involving such injustice, hardship and privation to largenumbers of people as to produce unrest so great that the peace and harmony of the world are imperiled; and an improvement of those conditions is urgently required; as, for example, by ... the protection of the worker against sickness, disease and injury arising out of his employment ...”

Preamble to the Constitution of the International Labour Organization

INTRODUCTION

The term Occupational Safety and Health (OSH) is commonly defined as, “The science of the anticipation, recognition, evaluation and control of hazards arising in or from the workplace that could impair the health and well-being of workers, taking into account the possible impact on the surrounding communities and the general environment”. The workers should be protected from sickness, injury and death arising out of their work is the principle set forth by ILO in its Preamble. Butthe work-related safety is far for millions of workers. ILO estimates that every year 2.78 million workers die due to occupational accidents among these 2.4million workers die due to work-related diseases. No doubt the death of workers leads to misery for their families and equivalently a grave

socio-economic loss. These losses of workers from occupational fatalities can be preventable through proper and sound implementation of preventive measures, information and training. For this the dedicative efforts and commitments are must from respective Government because ILO's efforts in implementations of Conventions and Protocols for the occupational safety and health of workers are very appreciative. But identification, ratification and implementation of these laws by the countries for the protection and welfare of workers are equivalently important.

SIGNIFICANCE OF THE INTERNATIONAL DAY FOR SAFETY AND HEALTH

Since 1996, every year 28th April is observed as the international day for safety and health at work for the promotion of healthy and decent work. This day is observed as a campaign for raising awareness and bring international attention on the magnitude of work-related diseases, injuries, and deaths of workers and for encouraging and creating a safety and health preventative principles for effective action in the safety and health field. The observation of 28 April as international day for safety and health has been associated with the International Trade Union Movement's remembrance of the victims of occupational accidents and diseases as Workers Memorial Day. The ILO in the year 2001 marked its participations and in the year 2003 selected as the International Day for Safety and Health at Work as an official day for a global awareness recognizing the same as both a remembrance and a celebration day. ILO while appreciating and honouring the injured and diseased workers states that "occupational injuries, diseases and fatalities can be prevented with the joint efforts of governments, employers and workers".

SIGNIFICANCE OF ILO CONVENTIONS ON OSH OF WORKERS

The principle of ILO was reinforced in the Philadelphia Declaration 1944, when the relevance of the ILO was reaffirmed which states that, "*The Conference recognizes the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve: ... (g) adequate protection for the life and health of workers in all occupations; ...*". The Joint ILO/WHO Committee at its first session in 1950 on "Occupational Health" defined the purpose of occupational health. It revised the definition at its 12th Session in 1995 which reads as follows: "*Occupational health should aim at: the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations; the prevention amongst workers of departures from health caused by their working conditions; the protection of workers in their employment from risks resulting from factors adverse to health; the placing and maintenance of the worker in an occupational environment adapted to his physiological and psychological capabilities; and to summarize the adaptation of work to man and of eachman to his job*". The safety and health conditions of work is recognised as an important concern so only the ILO has adopted around 40 Labour Standards and Codes of Practices particularly dealing with OSH. The main purpose of ILO standards on OSH is to provide essential principles and tools for governments, employers, and workers to adopt and establish such practices for the safety and health of workers at the work place. Some Conventions of ILO particularly define the fundamental principles of OSH such as Occupational Safety and Health Convention, 1981 (C NO. 155), Occupational

Health Services Convention, 1985 (C NO. 161) and Promotional Framework for Occupational Safety and Health Convention, 2006 (C No. 187).

OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 1981 (C NO. 155)

C NO.155 entered into force on 11 August 1983, it consists of 30 articles divided into 5 parts. It is the first convention enforced by ILO and the same has been ratified by sixty countries. C NO. 155 provides for the adoption of a comprehensible national OSH policy, as well as action to be taken by governments and within enterprises to promote OSH to improve working conditions of workers. C No. 151 accompanying Recommendation is No. 164. The Convention approach for action on the following: 1. formulation, implementation and periodical review of a national OSH policy; 2. the complete participation by the employers, workers, and their respective organizations, as well as other stakeholders at all levels; 3. the definition of national institutional roles and responsibilities; 4. a national system of recording and notification of occupational accidents and diseases; 5. the implementation of OSH at the workplace level, employers' responsibilities, and rights of workers and their representatives; and 6. requirements regarding information, education, and training. The C No.155 is complemented by the Protocol of 2002 (P No. 155) to the Occupational Safety and Health Convention, 1981 and the List of Occupational Diseases Recommendation, 2002 (R No. 194). The P No.155 further incorporates the provisions relating to the establishment and periodic review of requirements and procedures for the recording and notification of occupational accidents and sicknesses. It also provides for the publication of related annual statistics. The R No.194 provides for the regular review and update through multilateral meetings of experts of the list of occupational sicknesses included in the Annexure. Further, a new list was approved in March 2010 which reflect on the latest knowledge relating to the recognition of occupational sicknesses. It is a half-open list to allow for the recognition of the occupational origin of sicknesses not specified in the list, when a link is established between the exposure to a risk factor arising from work and the disorder contracted by the worker.

OCCUPATIONAL HEALTH SERVICES CONVENTION, 1985 (C NO. 161)

The second convention is Occupational Health Services Convention, 1985 (C No. 161) consists of 24 articles divided into 5 parts. Its accompanying Recommendation is Occupational Health Services Recommendation, 1985 (R No. 171) which provide for the establishment of occupational health services at national and enterprise levels. The C No 161 is designated to ensure the implementation of the OSH policy and relevant and control measures, including health scrutiny and emergency response. Occupational health services are assigned with basically precautionary functions and are responsible for establishing and preserving a safe and healthy working environment which will facilitate best physical and mental health and for the adaptation of work to the skills of workers. Such services should be integrative and shall enjoy full qualified independence from employers, employees, and their respective representatives, in relation to their functions.

PROMOTIONAL FRAMEWORK FOR OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 2006 (C NO. 187)

The third Convention is Promotional Framework for Occupational Safety and Health Convention, 2006 (C No. 187) and its accompanying Recommendation (R No. 197) counterpart the previous fundamental standards and reinforce the requirements for a national structure, relevant stakeholders responsible for implementing a national and enterprise level policy for safe and healthy working environments. Further, steps that need to be taken to build and maintain a preventive safety and health culture at the national level. The respective Governments along with the representative organizations of employers and workers must undertake active steps towards achieving and maintaining a safe and healthy working environment by the elaboration or updating of national policy. The development or upgrade of a national system and the implementation of national programmes on OSH. This process must also take into account the principles set out in relevant ILO instruments, as listed in the Annexure to RNo. 197.

PLAN OF ACTION ON OSH (2010-2016)

The ILO Governing Body in March 2010 adopted the Plan of Action to achieve widespread ratification and effective implementation of the Occupational Safety and Health instruments (2010–2016) with the purpose of developing a more holistic and integrated approach for supporting ILO member States on the important subject of OSH. It builds on the 2003 Global Strategy on OSH, the Promotional Framework for Occupational Safety and Health Convention, 2006 (C No. 187), and the General Survey on Occupational Safety and Health, 2009. A report on its implementation was presented to the ILO Governing Body in 2016.

There are certain strategies outlined by the Plan of Action they are:

1. Mapping the current situation at the national level and the readiness of member States to take action;
2. Promoting and supporting the development of a preventive safety and health culture;
3. Overcoming the obstacles in the implementation of ratified Conventions; and
4. Improving OSH conditions in small and medium-sized enterprises and the informal economy.

CODES OF PRACTICES AND GUIDELINES OF ILO ON OSH

ILO has presented the Codes of Practices in the form of detailed technical provisions and practical recommendations in legal vocabulary. The Codes of Practices complement the existing ILO international standards and explain in detail the responsibilities of governments, employers' and workers' organizations, as well as the specific precautionary and control measures for the application of such standards. But they are not legally binding instruments and are not proposed to replace the provisions of respective national laws, regulations, or accepted standards. However, these Codes of Practices can be used in drawing up national laws, strategies and collective agreements on OSH in both public as well as private sectors. Codes of Practices provide guidance on safety and health of workers at work in certain economic sectors. For instance; construction, agriculture, iron, mines, coal mines, and steel industries, non-ferrous metals industries, forestry, shipbuilding and ship repairing, etc. Further Codes of Practices on protecting

workers against specific risks such as, lasers, radiation, chemicals, asbestos, airborne substances and specific safety and health measures namely, protection of workers' personal data, safety, health recording, notification of occupational accidents and diseases, and working conditions in the transfer of technology to developing countries. ILO Guidelines are envisioned to provide technical guidance relating to specific areas of OSH, example; workers' health surveillance, management system, radiation protection, ergonomics, etc. These guidelines have been designed for use by respective national authorities, employers and workers, organizations, professional associations, scientific and academic institutions. They represent useful tools for enterprises and practitioners in the implementation of OSH measures.

RATIFICATION OF ILO STANDARDS ON OSH BY INDIA

As discussed above the protection of health and safety of workers at work is one of the important tasks of ILO. There are number of conventions and recommendations have been passed by ILO on the safety and health of workers. By till now ILO has passed 189 conventions and 202 recommendations of which 13 conventions & 16 recommendations were directly related on OSH. Presently ILO has 186 members and India is the member of ILO since its establishment in 1919. In India the rate of occupational fatalities and accidents is 10.4 per 100,000 fatalities, and 10.5 per 8,700 accidents. Till 1954 India had ratified 18 conventions. The Government of India in 1954 appointed a Committee to make recommendations on ratification of ILO Conventions and with recommendations of the committee Government started ratifying the ILO Conventions by 1958 the India ratified totaling 23 conventions. The Committee had also recommended to ratify C No. 63 and 99 relating to Minimum Wage fixing (Agriculture) Machinery Convention, 1951. But India did show any interest in ratifying the same. Later, India lost the interest in ratifying the ILO Conventions in a fast pace and till 1978 India ratified only 32 conventions. Since 1978 to 1990 not a single convention was ratified by India. The convention on Abolition of Forced Labour, 1957 (C No.105) was ratified by India after 43 years on 18th May, 2000. At present India has ratified 47 Conventions and 1 Protocol of which 39 are in force, 5 Conventions have been criticized and 4 instruments have been repealed. Out of 13 Conventions on OSH India has ratified only 1 Convention. List of important Conventions on the OSH and ratification of same by India are categorized as follows:

A. KEY INSTRUMENTS ON OCCUPATIONAL SAFETY

1. Promotional Framework for Occupational Safety and Health Convention, 2006 (C No. 187) and its Recommendation (R No. 197)- Not Ratified
2. Occupational Safety and Health Convention, 1981 (C No. 155), its Recommendation (R No. 164) and its Protocol of 2002 NO - Not Ratified
3. Occupational Health Services Convention, 1985(C No. 161) and its Recommendation (R No. 171)- Not Ratified

B. HEALTH AND SAFETY IN PARTICULAR BRANCHES OF ECONOMIC ACTIVITY

1. Hygiene (Commerce and Offices) Convention, 1964 (C No. 120) - Not Ratified.
2. Occupational Safety and Health (Dock Work) Convention, 1979 (C No. 152) - Not Ratified.
3. Safety and Health in Construction Convention, 1988 (C No. 167) - Not Ratified.

4. Safety and Health in Mines Convention, 1995 (C No. 176) - Not Ratified.
5. Safety and Health in Agriculture Convention, 2001 (C No. 184) - Not Ratified.

C. PROTECTION AGAINST SPECIFIC RISKS

1. Radiation Protection Convention, 1960 (C No. 115) - Yes Ratified on 17th November, 1975.
2. Occupational Cancer Convention, 1974 (C No. 139) and its Recommendation (R No. 147)-Not Ratified.
3. Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) -Not Ratified.
4. Asbestos Convention, 1986 (C No. 162)and its Recommendation (R No. 172) - Not Ratified.
5. Chemicals Convention, 1990 (C No. 170) -Not Ratified.

D. OTHER THAN THESE CONVENTIONS ON OSH THERE ARE OTHER CONVENTIONS WHICH HAVE BEEN RATIFIED BY INDIA THEY ARE:

1. Benzene Convention, 1971 (C No. 136) Yes, 11th June, 1991.
2. Prevention of Major Industrial Accident Convention, 1993 (C No. 174) Yes, 6th June, 2008.

INDIA'S LEGISLATIVE EFFORTS ON OSH

On the home front, India has enacted several legislations on OSH. Followed by the Bhopal gas leak disaster(Union Carbide Corporation v. Union of India. 1990 AIR 273 1989 SCC (2) 540) in the Factories Act, 1948 (amended in 1954, 1990, 1976 and 1987), a special chapter on OSH to safeguard workers employed in hazardous industries was added. This amendment was done for dealing with disaster or disease for the prevention of occurrence of the same. But the Act is applicable only to factories that employ 10 or more workers wherein it covers only a small proportion of workers. Some other important legislations dealing with OSH are as follows:

1. Dangerous Machines (Regulation) Act, 1983
2. Dock Workers (Safety, Health and Welfare) Act, 1986
3. Electricity Act, 2002.
4. Employee's State Insurance Act, 1948
5. Fatal Accidents Act, 1855
6. Indian Atomic Energy Act, 1962
7. Indian Boilers Act, 1923; Dangerous Machines (Regulations) Act, 1923
8. Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989
9. Mines Act, 1952
10. Motor Transport Workers Act, 1961
11. Personal Injuries (compensation insurance) Act, 1963
12. Personal Injuries (Emergency provisions) Act, 1962
13. Petroleum Act; 1934; Insecticide Act, 1968
14. Plantation Labour Act, 1951; Explosives Act, 1884
15. Radiological Protection Rules; 1971

16. Workmen's Compensation Act, 1923

The Directorate General of Factory Advice Service and Labour Institutes in the Ministry of Labour provide to put efforts for national policies on OSH in factories and docks, and implementing them through inspectorates of factories and inspectorates of dock safety. Directorate General of Mines Safety, Ministry of Labour, supervises the health and safety of mine workers and implementation of Mines Act, 1952. The Workmen's Compensation Act, 1923 is a law meant to protect injured workers. The goal of this Act is to make sure that the worker who is injured at work receives appropriate medical care, lost wages relating to the occupational injury and if necessary, reskilling and reintegration, so as to be able to return to the work place. If workers are killed during work, members of the workers' families are generally eligible for benefits. Besides this Act, there is one more which is called as Employee's State Insurance Act, 1948 which protects the workers in case of sickness, maternity and disabilities caused by injuries and consequential loss of wages.

CONCLUSION

It is utmost necessary for India to ratify the ILO Conventions on OSH and it has to think in the position of workers sufferings and struggle to improve safety at their place of work. The efforts of ILO in the enforcement of these Conventions are priceless but it lacks in making the member countries to ratify. It is the responsibility of ILO to stress countries to ratify these Conventions which are very much necessary for the safety and health of workers. Maybe Indian Government need the back pressure from Non-governmental Organisations or any labour force to ratify. There is an urgent necessity of providing socio-economic facilities to workers concerned to safety and health in the developing countries like India. Perhaps, ratification of the Conventions does not itself solve the problem of workers relating to safety and health it depends on how effectively they are implemented in their national laws. But there will some indications that the respective Government is concerned about the safety and welfare of the workers. Though, India has so many national laws enacted and enforced for the safety and health workers and may be felt not necessary to ratify ILO Conventions, but India need to be active and enthusiastic about the ratification of ILO Conventions for the safety and health of workers.

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