

---

**Safeguarding Workers under the New Labour Codes: Legal Dimensions  
of Occupational Health, Safety, and Mental Well-being in India**

**Dr. R. Uma Rani<sup>1</sup>**

**1. Introduction**

Protecting workers from occupational hazards, unsafe working conditions, and emerging mental health challenges is a central concern of labour policy worldwide. In India, labour welfare is rooted in constitutional commitments to social justice, human dignity, and humane work, with rights derived from both statutory provisions and the State's mandate to protect workers as a matter of public welfare.<sup>2</sup>

Historically, India developed a fragmented labour law framework, encompassing nearly 29 central laws and over 100 state statutes addressing wages, working hours, industrial relations, safety, welfare, and social security. This multiplicity resulted in overlapping obligations, inconsistent definitions, and uneven enforcement, often weakening worker protections and impeding effective administration. Rapid economic shifts—including the rise of the gig economy, technological intensification, and service sector expansion—further exposed gaps in occupational safety and mental health safeguards, particularly in informal employment.

To address these challenges, the Government of India undertook a major codification exercise, culminating in four labour codes: the Code on Wages (2019), Industrial Relations Code (2020), Code on Social Security (2020), and the Occupational Safety, Health, and Working Conditions (OSHWC) Code (2020). Among these, the OSHWC Code is the principal legislation regulating workplace safety, health, hazard prevention, and welfare. This article analyses the Code's provisions, judicial interpretations, international benchmarks, and policy challenges, highlighting its potential and limitations in reshaping worker protection in India.

**2. Constitutional Foundations of Labour Protection**

Labour rights in India draw strength from both the Fundamental Rights and the Directive Principles of State Policy (DPSPs), which together require the State to ensure safe, humane, and dignified working conditions.

**1. Fundamental Rights**

---

<sup>1</sup>Assistant Professor, College of Law for Women, AMS, Hyderabad

<sup>2</sup>India Const. pmb1.

---

Articles 14 and 15: Equality and Non-Discrimination Article 14 mandates equal protection of the laws, obligating the State to prevent discriminatory or unsafe work conditions. Article 15 prohibits discrimination based on religion, race, caste, sex, or place of birth, requiring equal access to safe work environments, protective equipment, and non-discriminatory allocation of hazardous duties. Courts have held repeatedly that unsafe or unequal workplaces violate these guarantees.

Article 19(1)(c): Freedom to Form Associations. This right enables workers to unionise and collectively negotiate workplace safety standards. Trade unions remain crucial in hazardous industries such as mining and construction. Although reasonable restrictions apply, the judiciary recognises unions as essential to securing safer workplaces.<sup>3</sup>

Article 21: Right to Life and Personal Liberty Through expansive interpretation, Article 21 includes the right to live with dignity, incorporating occupational health, hygiene, and safety. <sup>4</sup>In *Consumer Education and Research Centre v. Union of India* (1995), the Supreme Court held that occupational health is integral to the right to life, placing obligations on employers and the State to protect both physical and mental well-being. This forms the constitutional foundation for modern OHS legislation, including the OSHWC Code.<sup>5</sup>

## 2. Directive Principles of State Policy

Though non-justiciable, DPSPs provide the moral and policy basis for labour laws.

- Article 38 requires the State to secure a social order based on justice, forming the basis for minimum wages, safety standards, and welfare protections.
- Article 39(e) obligates the State to protect workers' health and prevent exploitation, especially in hazardous sectors.

---

<sup>3</sup>See, e.g., *Air India v. Nargesh Meerza*, (1981) 4 SCC 335 (holding that discriminatory workplace conditions violate equality guarantees).

<sup>4</sup>See *All India Bank Employees' Ass'n v. Nat'l Indus. Tribunal*, AIR 1962 SC 171 (recognising importance of trade unions).

<sup>5</sup>*Consumer Educ. & Research Ctr. v. Union of India*, (1995) 3 SCC 42.

- Article 42 mandates humane working conditions and maternity relief, interpreted to include cleanliness, ventilation, safe machinery, and mental well-being.
- Article 43A promotes worker participation in management, reflected in safety committees and participatory governance under the OSHWC Code.

Together, these provisions create a constitutional mandate for safe, hygienic, and equitable work environments.

Evolution of Occupational Health and Safety Laws in India

Before the labour codes, India's OHS framework was fragmented across 29 central laws and numerous state laws.

#### 1. Pre-Code Framework

Key legislations included the Factories Act, Mines Act, Plantation Labour Act, Inter-State Migrant Workmen Act, BOCW Act, and Contract Labour Act. Each protected specific sectors but suffered from limited coverage, inconsistent definitions, overlapping inspections, weak enforcement, and poor inclusion of informal workers—who form over 90% of the workforce.

#### 2. Need for Codification

Codification became necessary due to:

- non-uniform OHS standards across industries,
- lack of protection for gig, platform, and informal workers,
- weak penalties and enforcement mechanisms,
- absence of mental health safeguards, and
- inadequate use of technology in inspections and reporting.

Objectives of the OSHWC Code, 2020

The Occupational Safety, Health and Working Conditions Code consolidates 13 laws to modernise India's safety regime.<sup>6</sup>

Key objectives include:

1. establishing universal minimum safety and health standards;
2. standardising employer duties related to risk assessments, safety training, and accident reporting;
3. strengthening safety governance through safety officers and committees;

---

<sup>6</sup>Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, India Code (2020).

4. expanding coverage to previously excluded sectors;
5. enhancing welfare facilities such as drinking water, crèches, and medical care;
6. introducing inspector-cum-facilitators and digital inspection systems; and
7. addressing vulnerabilities of migrant workers through registration, helplines, and welfare portability.

While the Code represents a major step forward, its impact will depend on rigorous implementation, especially in the informal economy, and the effective integration of mental health and technology-based monitoring into workplace safety.<sup>7</sup>

#### Salient Features of the OSHWC Code

The Occupational Safety, Health and Working Conditions (OSHWC) Code introduces major structural reforms aimed at simplifying compliance and strengthening worker protection.

1. **Single Registration** The Code replaces multiple registrations under earlier labour laws with a unified registration system, reducing administrative burdens while maintaining regulatory oversight.<sup>8</sup>

2. **Mandatory Health Check-ups** Regular medical examinations are compulsory for workers in hazardous industries, those exposed to chemicals or radiation, and migrant or contract labour. This enables early detection of occupational diseases such as silicosis and chemical poisoning.<sup>9</sup>

3. **Appointment of Safety Officers:** Large establishments and hazardous units must appoint qualified safety officers to conduct safety audits, oversee accident prevention, ensure compliance, and provide safety training—professionalising workplace safety management.<sup>10</sup>

4. **Working Conditions for Women:** Women may work in any sector, including at night, subject to their consent and facilities such as safe transport, CCTV, proper

---

<sup>7</sup>See Ministry of Labour & Employment, *Migrant Workers Portal*, Gov't of India (2021).

<sup>8</sup>OSHWC Code § 3 (single registration).

<sup>9</sup>*Id.* § 26 (medical examinations & health surveillance).

<sup>10</sup>*Id.* § 22 (appointment of safety officers).

---

lighting, and gender-sensitive amenities. This promotes gender equality while ensuring protection.<sup>11</sup>

#### 5. Sector-Specific Standards

Stringent, updated safety norms apply to high-risk sectors such as mines, docks, factories, construction, and transport, ensuring enhanced oversight.

#### 6. Common Hazards Framework

The Code consolidates fragmented earlier laws into a unified framework addressing mechanical, electrical, chemical, fire, ergonomic, and psychosocial hazards.<sup>12</sup>

7. National Occupational Safety and Health Advisory Board (NOSHAB)  
NOSHAB advises on national OHS standards, technological updates, and best practices, strengthening India's governance model.

#### Legal Dimensions of Occupational Health

The OSHWC Code restructures duties and rights governing occupational health, placing primary responsibility on employers while empowering workers.

#### Employer's Duty of Care

Employers must ensure a hazard-free environment by identifying and mitigating physical, chemical, biological, and ergonomic risks. They must conduct risk assessments, maintain equipment safely, and provide mandatory induction and periodic safety training. The Code requires fire safety, ventilation, sanitation, and waste control in line with Article 42's mandate for humane working conditions.<sup>13</sup> Regular medical examinations and health surveillance are compulsory for hazardous, migrant, and contract workers. Employers must also report occupational diseases, serious injuries, and fatalities. Non-compliance attracts fines, enhanced penalties for repeat violations, and even criminal prosecution.<sup>14</sup>

---

<sup>11</sup>**Id.** § 43 (women's working conditions).

<sup>12</sup>**Id.** ch. III (hazard identification: mechanical, chemical, etc.).

<sup>13</sup>**See** *M.C. Mehta v. State of Tamil Nadu*, (1996) 6 SCC 756 (employer duty to provide a safe workplace).

<sup>14</sup>**Id.** ch. XII (penalties).

### Worker's Rights

Workers are recognised as active partners in safety governance. They have rights to hazard information, structured safety training, and mechanisms to report unsafe conditions. Workers may refuse dangerous work without penalty and may access their medical and exposure records.

### Gig and Platform Workers

Although gig workers are recognised under the Social Security Code, the OSHWC Code offers only indirect protection. Platform workers face risks such as accidents, heat exposure, and algorithmic stress, yet are not classified as employees, leaving aggregators free of OHS liability. Key gaps involve the absence of mandated PPE, insurance, rest breaks, and safety training. Scholars advocate explicit inclusion of gig workers in OHS law, mandatory safety audits, mental-health support, and grievance redressal systems, drawing from international precedents like *Uber v. Aslam* (UK).<sup>15</sup>

## **6. Mental Well-being as a Legal Component of Occupational Health**

With rapid technological change, demanding work cultures, and rise of platform work, mental health has become central to occupational health. Indian labour law, however, still focuses largely on physical safety, with limited recognition of psychological risk.

### **6.1 Constitutional and Judicial Recognition**

#### **Article 21 and Mental Health**

The right to life includes dignity, psychological integrity, and freedom from harmful working conditions.

Notable cases include:

- **Francis Coralie Mullin (1981):** dignity is integral to life.<sup>16</sup>
- **CERC v. Union of India (1995):** links right to health with workplace safety.<sup>17</sup>

---

<sup>15</sup>*Uber B.V. v. Aslam*, [2021] UKSC 5 (U.K.) (holding platform workers to be “workers” entitled to labour protections).

<sup>16</sup>*Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608.

<sup>17</sup>*Consumer Educ. & Research Ctr. v. Union of India*, (1995) 3 SCC 42.

•

- **Olga Tellis (1985):** state cannot force people into harmful work.<sup>18</sup>
- **Puttaswamy (2017):** privacy includes mental autonomy.<sup>19</sup>

Courts have also recognised workplace stress as compensable injury, especially in cases of stress-induced cardiac deaths.

## **6.2 International Standards**

### **ILO Norms**

ILO Convention No. 155 and guidelines on work-related stress emphasise the need to manage psychosocial risks.

### **WHO–ILO Joint Guidance (2022)**

Recommends:

- reducing excessive work hours,
- preventing bullying and harassment,
- supporting mental-health programs.<sup>20</sup>

### **Global Practices**

Countries such as UK, Japan, EU members, and Australia legally require stress assessment and recognise psychological injuries for compensation.

## **6.3 Domestic Legal Framework**

### **(A) Mental Healthcare Act, 2017**

The MHCA guarantees:

- right to mental healthcare,
- protection from inhuman treatment,
- stress-free environment.

However, it does not mandate employer responsibility for mental well-being.

### **(B) OSHWC Code and Mental Health**

The Code:

---

<sup>18</sup>*Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 SCC 545.

<sup>19</sup>*K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

•

<sup>20</sup>• World Health Org. & Int'l Labour Org., *Joint Guidelines on Mental Health at Work* (2022).

•

- focuses mainly on physical risks,
- does not recognise psychological hazards,
- lacks norms on burnout, stress, and harassment,
- does not mandate EAPs or work-life balance.

This absence weakens mental-health accountability.

### **(C) High-Stress Sectors**

Sectors such as IT, manufacturing, healthcare, finance, legal services, and gig work face:

- long hours,
- targets,
- fatigue,
- emotional exhaustion,
- algorithmic pressure.

Sector-specific legal standards for psychological health are urgently needed.

### **Workplace Mental Health Risks in India: Condensed Review**

Mental health has become a central concern in India's labour ecosystem as work environments evolve with globalisation, digitisation, and the rise of gig employment. Despite legal reforms, significant gaps remain in the protection of workers from psychological harm. Addressing these requires explicit statutory recognition of psychosocial risks, mandatory mental health policies, regulation of work hours and digital disconnection, accessible grievance redressal systems, coverage of mental injury under compensation laws, and safeguards for gig workers.<sup>21</sup>

### **Stress and Burnout**

Workplace stress is among the most widespread mental health challenges in India. According to a 2022 Deloitte study, 47% of employees experience moderate to severe stress, while earlier ASSOCHAM findings show 42% struggle with anxiety or depression linked to work conditions.<sup>22</sup> NIMHANS reports that one in five

---

<sup>21</sup> Employees' Compensation Act, No. 30 of 1923 (limited coverage of stress-induced injury).

<sup>22</sup> Deloitte, *Mental Health and Well-being in the Workplace* (2022).

employees in urban India shows symptoms of clinical burnout; burnout rates reach 60% in the IT–ITES sector and exceed 75% among junior medical staff.

Key causes include excessive workloads, unrealistic deadlines, 24/7 digital connectivity, job insecurity, poor work–life balance, toxic organisational cultures, and rotating or extended shifts. Sectoral patterns reveal that IT and ITES workers face digital fatigue and anxiety from layoffs and night shifts; healthcare professionals experience emotional exhaustion and trauma; manufacturing workers deal with repetitive tasks and high production pressure; and teachers face administrative burdens and emotional labour. Chronic burnout contributes to depression, physiological illnesses, absenteeism, and reduced productivity.

### **Harassment and Bullying**

Psychosocial safety is inadequately addressed in Indian labour law. While the POSH Act, 2013 effectively covers sexual harassment, there is no statutory framework for non-sexual harassment or workplace bullying. Employees must depend on fragmented remedies such as internal HR rules, provisions of the IPC, or constitutional writs.

Forms of harassment include bullying, intimidation, exclusion, verbal abuse, digital harassment, and gender-based discrimination. Research by the Indian Psychiatric Society shows strong links between workplace harassment and anxiety, depression, emotional exhaustion, and lowered self-esteem.<sup>23</sup> Sector-wise, corporate workplaces report high levels of psychological harassment; government departments exhibit bullying driven by hierarchy; teachers face pressure from administrators and parents; and hospitality workers experience humiliation and verbal abuse. Lack of a dedicated anti-bullying law keeps such harms underreported and unresolved.

### **Unorganised and Migrant Workers**

Nearly 92% of India’s workforce is in the unorganised sector, and migrant workers face heightened mental health risks. Factors such as job insecurity, exploitative working hours, poor living conditions, social isolation, and climate-related heat exposure contribute to chronic psychological distress. Migrant labourers often work

---

•

<sup>23</sup> **Indian Psychiatric Society**, *Workplace Harassment and Mental Health Study* (2019).

---

12–16 hours a day with no weekly rest, live in overcrowded housing, and lack support systems—leading to anxiety, depression, substance abuse, and fatigue.<sup>24</sup>

The new Labour Codes attempt reforms by formalising registration, mandating welfare facilities, and introducing standards for working conditions. However, weak enforcement, lack of documentation, limited awareness, and widespread circumvention by employers undermine their effectiveness. The migrant crisis during COVID-19 vividly exposed the deep psychological vulnerabilities of informal workers.<sup>25</sup>

Workplace mental health risks in India span corporate, industrial, service, and informal sectors. While the Labour Codes consolidate regulation, they fall short in addressing psychosocial hazards. Effective mental health protection requires legal reform, enforcement mechanisms, employer accountability, and inclusive policies that recognise mental well-being as integral to occupational safety and Decent Work.<sup>26</sup>

### **8. Workers' Safety: Sector-Specific Legal Dimensions**

The OSHWC Code, 2020 sets out a unified framework for occupational safety, recognising that different sectors face distinct risks. Its sector-specific provisions for manufacturing, construction, mining, and dock work aim to address these unique hazards, though implementation challenges persist across industries.

#### **8.1 Manufacturing and Factory Settings**

---

<sup>24</sup>**Ministry of Labour & Employment**, *Report on Conditions of Work for Migrant Workers in India* (2021).

<sup>25</sup>•**Supreme Court of India**, *In Re: Problems and Miseries of Migrant Labourers*, (2020) 3 SCC 719.

•

<sup>26</sup>**International Labour Organization**, *Guidelines on Work-Related Stress* (2016).

Manufacturing continues to be a major employment sector with diverse safety risks. The OSHWC Code consolidates earlier regulations under the Factories Act to ensure stronger oversight.

#### **Key Legal Provisions**

- **Machine Safety:** Employers must maintain machinery, install guards, emergency shut-offs, and apply lockout/tag-out procedures during maintenance.
- **Hazardous Processes:** Work involving chemicals, flammable materials, or high heat requires risk assessments, signage, and periodic safety audits.
- **Chemical Exposure:** Legal exposure limits are prescribed. Employers must provide PPE, conduct health surveillance, and ensure safe storage and handling of toxic substances.
- **Medical Surveillance:** Pre-employment and periodic medical checks are mandatory for exposed workers, along with record-keeping and reporting of occupational diseases.

#### **Challenges**

Many small factories lack resources to comply, informal workers are excluded from medical monitoring, and enforcement remains uneven.

### **8.2 Construction and Building Workers**

The construction sector employs nearly 57 million workers, most of whom are unorganised and migrants. Integrating earlier legislation, the Code aims to strengthen their protection.

#### **Key Legal Provisions**

- **Safety Committees:** Required in worksites with 50+ workers; committees monitor risks and enforce safety norms.
- **Fall Prevention:** Mandatory scaffolding, guardrails, harnesses, safe access platforms, and training in fall protection.
- **Safety Gear:** Employers must provide helmets, boots, gloves, and eye protection, ensuring regular replacement.
- **Emergency Care:** First-aid facilities, access to emergency transport, and mandatory reporting of accidents to authorities.

#### **Challenges**

High mobility of migrant labour, informal subcontracting, and limited awareness of rights weaken implementation.

### **8.3 Mining and Dock Work**

---

Mining and dock operations involve high-risk environments such as confined spaces, explosives, and heavy machinery. The Code consolidates provisions from earlier laws to strengthen regulation.

#### **Key Legal Provisions**

- **Explosives Handling:** Strict control on storage and handling; only trained personnel may manage detonating materials. Emergency drills and reporting mechanisms are compulsory.
- **Ventilation and Environmental Safety:** Mines must maintain ventilation to prevent gas buildup. Dust control, air quality monitoring, and toxic gas detection systems are mandated.
- **Operational Plans:** Approved mine plans must outline evacuation routes and emergency exits. Dock operations require risk assessments for cargo handling, particularly hazardous materials.
- **Welfare Measures:** Restrooms, canteens, medical facilities, rest periods, limits on working hours, protective clothing, and adequate lighting are mandated.<sup>27</sup>

#### **Challenges**

Remote locations delay inspections; reliance on contract labour complicates accountability; rapid cargo turnover and insufficient training raise risks in docks.

#### **8.4 Cross-Sectoral Observations**

The Code establishes common principles across sectors—risk assessment, safety training, and welfare standards.<sup>28</sup> Safety committees enhance worker participation. However, psychological risks and mental health remain largely unregulated. Informal labour, limited regulatory capacity, and cultural barriers hinder effective compliance.

---

<sup>27</sup>•**Comptroller and Auditor General of India (CAG)**, *Performance Audit of Safety in Coal Mines* (2021).

•

<sup>28</sup>•**International Labour Organization**, *Guidelines on Occupational Safety and Health Management Systems (ILO-OSH 2001)* (2001).

•

---

The OSHWC Code's sector-specific provisions acknowledge the varied hazards in manufacturing, construction, mining, and dock work. While the legal framework is robust, actual enforcement—especially for migrant and informal workers—continues to lag. Stronger monitoring, integration of mental health safeguards, and improved worker awareness are crucial to realising the Code's goals.

## **9. Women's Safety and Participation under the OSHWC Code, 2020**

The OSHWC Code, 2020 represents a shift from restrictive, protectionist labour laws toward an enabling framework that supports women's equal participation in India's workforce. By addressing night work, workplace facilities, harassment protections, and enforcement challenges, the Code seeks to balance safety with gender equality.

### **9.1 Right to Work and Night Employment**

Earlier laws prohibited women from night shifts in factories, mines, and hazardous sectors, limiting career growth and reinforcing gender segregation. The OSHWC Code now permits **consent-based night work**, requiring employers to obtain **written consent** and ensure safety measures such as secure transport, proper lighting, and emergency access.<sup>29</sup> Employers must also assess night-shift risks and uphold health and safety standards. This reform expands opportunities in IT, healthcare, hospitality, and manufacturing, recognising women as equal economic participants while mandating employer responsibility.

### **9.2 Workplace Facilities for Women**

To address gender-specific needs, the Code mandates:

- **Separate washrooms** for establishments with 10+ workers, ensuring privacy and hygiene.
- **Crèche facilities** for establishments with 50+ workers to support work–life balance and reduce absenteeism.
- **Basic welfare measures** such as clean drinking water, seating, and rest areas, especially important in labour-intensive sectors like construction and healthcare.

### **9.3 Protection from Harassment**

---

<sup>29</sup>•The Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, §§ 43–45.

•

The Code reinforces the **POSH Act, 2013**, requiring Internal Committees, awareness programs, and accessible grievance redressal. While POSH addresses sexual harassment, the Code's broader safety obligations can extend to bullying, intimidation, and gender-based discrimination.<sup>30</sup> Non-compliance may attract penalties, and women may also seek remedies under labour, civil, or criminal laws.

#### **9.4 Inclusive Workforce Participation**

These reforms have significant implications:

- **Greater employment access** through removal of night-shift restrictions.
- **Enhanced workplace dignity and safety** via welfare and anti-harassment provisions.
- **Improved leadership representation**, as safe working conditions encourage women to enter technical and managerial roles.
- **Broader socio-economic benefits**, including women's empowerment, improved child welfare, and increased household income stability.<sup>31</sup>

#### **9.5 Challenges in Enforcement**

Despite progressive provisions, several barriers persist:

- **Implementation gaps** in small and informal enterprises.
- **Cultural barriers** and patriarchal norms that discourage reporting of harassment.
- **Limited protection for migrant and contract women workers**, who often fall outside formal systems.
- **Weak monitoring**, particularly of crèche facilities and gender-sensitive welfare measures.

#### **9.6 Policy Recommendations**

Strengthening protections requires:

- Gender-sensitive labour inspections and stricter enforcement.

---

<sup>30</sup>•**National Commission for Women (NCW)**, *Annual Report on Workplace Harassment* (2022).

•

<sup>31</sup>•**ILO**, *Women's Economic Empowerment and Occupational Safety* (2019).

•

- Awareness campaigns to inform women of their rights and promote employer accountability.<sup>32</sup>
- Integration of mental health support, including counselling and stress-management programmes.
- Targeted support for migrant women through mobile helplines and inclusion in welfare schemes.

The OSHWC Code provides a transformative framework for women's employment, but its success depends on effective implementation, awareness, and integration with broader occupational health strategies.

### **10. Migrant Workers and the New Labour Codes**

India's migrant workforce, estimated at over 140 million, plays a vital role in sectors such as construction, manufacturing, domestic work, hospitality, and agriculture. Due to their mobility and predominance in informal employment, migrant workers remain highly vulnerable and often excluded from formal labour protections. The OSHWC Code and related labour reforms attempt to address these concerns, though on-ground implementation remains challenging.

#### **10.1 Key Legal and Policy Protections**

The Code provides several safeguards for migrant workers. Employers must offer **mandatory journey allowance** to cover travel, lodging, and related expenses during migration for work, reducing economic hardship. **Toll-free helplines** are required for reporting exploitation, wage disputes, accidents, and unsafe conditions, ensuring accessible grievance redressal.

A central feature is the push for an **Aadhaar-based database** of migrant workers to enable portability of social security benefits, targeted welfare measures, and efficient responses during crises.<sup>33</sup> Employers must also ensure **free periodic medical check-ups**, especially in hazardous occupations, to detect occupational

---

<sup>32</sup>• **Ministry of Labour & Employment, *Report on Status of Compliance with POSH Act (2021)*.**

•

<sup>33</sup>• **National Informatics Centre, *Aadhaar-based Migrant Worker Database Guidelines (2020)*.**

•

---

diseases early. Under the Social Security Code, migrants are entitled to provident fund, health insurance, maternity benefits, and skill development programmes, with an emphasis on portability.

### **10.2 Challenges in Implementation**

Despite statutory provisions, several obstacles remain. A significant **digital divide** limits access to Aadhaar-linked registration systems for workers without smartphones or literacy. **Portability of benefits** is hindered by poor inter-state coordination and administrative bottlenecks, leading to loss of entitlements.

Migrant workers continue to face **exploitation**, including wage theft, excessive hours, unsafe housing, and lack of grievance access, particularly where informal contractors operate. The Code also lacks **explicit mental health protections**, despite migrants' heightened vulnerability to stress, isolation, discrimination, and job insecurity. Weak enforcement and fear of retaliation further restrict the effectiveness of these safeguards.<sup>34</sup>

### **10.3 Recommendations**

Strengthening protections requires offline enrolment options, wider awareness campaigns, and improved portability through a centralised social security portal. Integrating **mental health services**, enhancing labour inspections, and extending coverage to gig, informal, and domestic workers are essential.

While the OSHWC Code acknowledges migrant vulnerabilities, systemic gaps limit its impact. Effective implementation, stronger monitoring, and inclusion of mental health safeguards are critical for ensuring safe and dignified working conditions for India's migrant workforce.

## **11. Compliance and Enforcement under the OSHWC Code, 2020**

The effectiveness of the OSHWC Code, 2020 and accompanying labour reforms depends on strong compliance mechanisms, efficient inspection systems, and credible enforcement. Recognising the limitations of the traditional inspectorate, the Code introduces a modernised **inspector-cum-facilitator model**, emphasising digital monitoring, employer accountability, and ease of compliance.

### **11.1 Inspector-Cum-Facilitator Model**

---

<sup>34</sup>•**Supreme Court of India, In Re: Problems and Miseries of Migrant Labourers**, (2020) 3 SCC 719.

•

---

The model marks a shift from punitive inspections to supportive facilitation. It relies on **technology-driven oversight**, including digital platforms for registration, real-time hazard reporting, and transparent inspection records. Establishments may adopt **self-certification**, reducing administrative burden and promoting collaborative compliance. By focusing on guidance rather than punishment, the model seeks to minimise “inspector-raj” and enhance employer cooperation.

**Advantages** include improved efficiency, better sectoral coverage, and data-driven monitoring that enables trend analysis and targeted interventions. Facilitators can also play a significant role in capacity building by training employers and workers on safety practices.

However, the model poses several **challenges**. Reduced physical inspections may lead to **under-enforcement**, especially in small or informal units. Excessive reliance on employer self-reporting risks overstatement of compliance and may weaken deterrence. In high-risk sectors such as construction and mining, independent inspections remain essential. Additionally, inspectors require specialised training and adequate staffing; without these, the model may be ineffective.

### **11.2 Penalty Structure**

The Code retains a dual system of **monetary fines and imprisonment**. Employers may be penalised for non-provision of PPE, failure to conduct medical checks, or poor welfare facilities. Serious violations causing death or severe injury can attract imprisonment of managers or directors, reinforcing individual accountability. Repeat offences trigger enhanced penalties.

Despite this framework, deterrence remains limited. Monetary fines are often insignificant for large corporations, allowing them to treat penalties as operational costs.<sup>35</sup> **Low prosecution rates**—due to underreporting, procedural delays, and complex corporate hierarchies—further weaken enforcement. SMEs and informal sectors frequently escape scrutiny, while high-risk industries require stronger inspection schedules and higher penalty thresholds.

### **11.3 Recommendations**

A balanced approach combining facilitation with **rigorous inspections** is essential, supported by periodic unannounced audits. Inspectors must receive training in

---

<sup>35</sup> • **World Bank**, *Strengthening Labour Compliance Systems in India* (2020).

---

sector-specific hazards, digital tools, and psychosocial risk assessment. Penalties should be proportionate to company size through **sliding-scale fines**, with increased personal liability for officers in cases of gross negligence. Strengthening worker participation through safety committees, whistleblower systems, and digital reporting tools will enhance monitoring. Technology-driven systems such as hazard dashboards and compliance ratings can incentivise voluntary adherence.<sup>36</sup>

## **12. Judicial Perspective on Occupational Safety and Health**

The Indian judiciary has significantly shaped occupational safety and health jurisprudence, often filling gaps left by inadequate legislation and weak enforcement. Through expansive interpretations of Article 21, courts have affirmed that safe and healthy working conditions form an essential part of the right to life.

### **12.1 Key Judicial Pronouncements**

#### **1. Oleum Gas Leak Case (MC Mehta v. Union of India, 1987)**

Following a hazardous gas leak in Delhi, the Supreme Court formulated the doctrine of **absolute liability**, holding hazardous industries fully accountable for harm irrespective of negligence. This judgment reinforced that industrial profitability cannot override worker and community safety.

#### **2. Consumer Education and Research Centre v. Union of India (1995)**

The Court recognised the **right to health** as integral to Article 21, holding that workers in hazardous sectors are entitled to preventive medical care and safe working conditions. Employers and the State bear a constitutional duty to ensure occupational health.

#### **3. Bhopal Gas Tragedy Litigation**

The aftermath of the Bhopal disaster exposed systemic regulatory failures and negligence in safety management. Judicial interventions emphasised employer responsibility, environmental safeguards, and compensation for victims, influencing later legislative reforms including the OSHWC Code.

Other cases—such as railway accident claims, Sterlite plant litigation, and disputes involving exposure to hazardous substances—further established employer liability and the need for safety training and hazard prevention.

---

<sup>36</sup>**International Labour Organization**, *Workplace Compliance Dashboards and Incentives* (2022).

## **12.2 Core Judicial Principles**

Courts have articulated several foundational doctrines:

- **Absolute liability** for hazardous industries.
- **Right to safe work** as part of Article 21.
- Employer responsibility for compensation and systemic safety improvements.
- The **precautionary principle**, requiring proactive risk mitigation.
- Recognition of the linkage between **environmental safety and worker health**.

## **12.3 Implications for the OSHWC Code**

These judicial principles reinforce the Code by strengthening employer duties, supporting stricter penalties and inspections, and providing a constitutional basis for expanding occupational health to include **mental well-being**. Judicial oversight ensures accountability across formal, informal, and high-risk sectors, serving as a crucial safeguard against negligence.<sup>37</sup>

## **13. Emerging Occupational Risks and the Need for Adaptive Legal Frameworks**

The OSHWC Code, 2020, strengthens legal protections for workers, yet evolving work environments introduce new challenges. Globalisation, technological advancement, climate change, and the gig economy create occupational hazards that require adaptive legal responses.

### **13.1 Heat Stress and Climate Hazards**

Outdoor and physically intensive sectors—construction, agriculture, mining, and manufacturing—face rising heat-related risks, including heat exhaustion, dehydration, cardiovascular stress, and fatigue-induced accidents. Urban informal workers are particularly vulnerable due to poor ventilation, inadequate hydration, and lack of rest facilities. Current legal provisions lack sector-specific guidelines on work-rest cycles, protective clothing, and climate adaptation measures.

### **13.2 Technological Hazards**

Automation, robotics, and AI introduce new workplace risks. Physical hazards include crush injuries and repetitive strain from human-robot interactions. Algorithmic oversight creates job insecurity and stress. Existing labour laws focus

---

<sup>37</sup>•**M.C. Mehta v. Union of India**, (1987) 1 SCC 395 (absolute liability in hazardous industries).

•

on physical hazards, leaving AI-induced risks and human-machine safety unregulated.<sup>38</sup>

### **13.3 Mental Health Crisis**

Stress, long hours, high-pressure deadlines, and job insecurity contribute to burnout, depression, substance abuse, and workplace accidents, particularly in IT/ITES, finance, healthcare, and logistics. The OSHWC Code does not explicitly mandate employer responsibilities for psychological well-being, leaving informal and gig workers largely unsupported.

### **13.4 Gig Economy Vulnerabilities**

Gig and platform workers lack statutory coverage for injuries, mental health support, or hazard compensation. Platforms do not provide PPE, training, or insurance, and workers face pressure from performance metrics, leading to fatigue and burnout. Legal reforms are needed to extend safety, social security, and mental health protections to this workforce.<sup>39</sup>

### **13.5 Integrated Implications**

Emerging risks require multi-dimensional safety provisions, sector-specific adaptation, robust monitoring, and policy innovation. Climate resilience, AI safety protocols, and mental health safeguards must be integrated into occupational health frameworks.

Rapidly evolving work environments expose gaps in current labour protections. To ensure safe, dignified, and inclusive work, the OSHWC Code and allied legislation must be supplemented with adaptive policies, preventive measures, and proactive interventions addressing physical, technological, and psychosocial risks.

## **14. International Best Practices in Occupational Health and Worker Safety**

India's OSHWC Code, 2020, consolidates labour protections, but emerging hazards and mental health risks necessitate adaptive frameworks. Examining international practices from the EU, US, and Japan offers lessons for improving psychological well-being, hazard prevention, and enforcement.

### **14.1 European Union (EU)**

---

<sup>38</sup>ILO, *Digital Labour and AI Risks in the Workplace* (2020).

<sup>39</sup>Ministry of Labour & Employment, *Guidelines on Mental Health at Workplaces* (2022).

The EU harmonises occupational safety across member states via directives:

- **Psychological Risk Assessment:** Employers must identify and mitigate psychosocial hazards such as workload, harassment, role ambiguity, and lack of support. Preventive measures include training, organisational interventions, and mental health support.
- **Working Hours and Rest:** Weekly hours are capped at 48, with mandatory daily and weekly rest periods to reduce fatigue and burnout.
- **Mental Well-Being Programs:** Employee Assistance Programs (EAPs), stress management workshops, and flexible work arrangements are encouraged, enforced through inspections and audits.

*Lesson for India:* Integrate psychosocial risk assessments, enforce work-hour limits, and provide structured rest periods, particularly in IT, healthcare, and manufacturing sectors.<sup>40</sup>

#### **14.2 United States (OSHA)**

The US framework emphasises compliance and worker participation:

- **Hazard Communication:** Workers must be informed about physical, chemical, and biological hazards via training, safety data sheets, and signage.
- **Worker Rights:** Employees can safely report hazards; OSHA enforces corrective actions, enhancing accountability.
- **Training and Certification:** Mandatory safety training for workers and supervisors improves hazard awareness and emergency preparedness.

*Lesson for India:* Strengthen reporting mechanisms and integrate mandatory training and certification to reduce accidents.

#### **14.3 Japan**

Japan addresses overwork and psychosocial risks:

- **Karoshi Legislation:** Employers are accountable for health issues or deaths caused by excessive work hours.
- **Mandatory Stress Checks:** Annual stress assessments in organisations with 50+ workers identify at-risk employees, with counselling and workload adjustments provided.
- **Cultural Integration:** Stress monitoring is embedded into workplace culture, emphasising prevention over compensation.

---

<sup>40</sup>International Labour Organization, *Guidelines on Employee Assistance Programs and Workplace Mental Health* (2022).

---

*Lesson for India:* Adopt mandatory stress assessments and psychological risk monitoring, linking outcomes to employer accountability.

#### **14.4 Key Takeaways for India**

- Incorporate mental health into the OSHWC Code with mandatory assessments and interventions.
- Establish whistleblower and grievance mechanisms for hazard reporting.
- Define work-hour limits and mandatory rest periods.
- Integrate mandatory training, certification, and awareness programs.
- Expand digital monitoring to track compliance, link penalties, and incentivise adherence.

EU, US, and Japan demonstrate that occupational safety must address physical, psychological, and emerging risks. By adapting these practices, India can strengthen the OSHWC Code, ensuring comprehensive, enforceable protections for workers across sectors, including gig and high-tech industries.

### **15. Policy Recommendations for Strengthening Worker Safety and Well-Being in India**

Despite advances under the OSHWC Code, 2020, India faces emerging occupational hazards, mental health challenges, and the rise of non-traditional employment models. Effective policy interventions must integrate mental well-being, enforcement, and inclusive protections.

#### **15.1 Strengthen Mental Health Provisions**

- **Recognise Psychological Hazards:** Amend the Code to include stress, burnout, harassment, and bullying as occupational risks, with employer obligations for assessment and mitigation.
- **Mandatory Programs:** Establish stress management initiatives in organisations with 50+ employees, including counselling, awareness workshops, and flexible work options.
- **Anti-Bullying Measures:** Extend protections beyond sexual harassment to all workers, including informal and migrant employees.
- **Promote Mental Health Culture:** Encourage peer support, employee assistance programs, and link compliance to incentives or recognition.

#### **15.2 Improve Enforcement**

- **Enhanced Penalties:** Introduce revenue-linked fines for large corporations and escalate penalties for repeat offenders, including personal liability for managers.
- **Digital Monitoring:** Use centralised dashboards and AI analytics for inspections, hazard reporting, and compliance verification.

- **Inspectorate Capacity:** Increase trained inspectors, provide sector-specific and psychosocial training, and deploy mobile units to reach informal or remote worksites.

#### **15.3 Extend Coverage to Gig Workers**

- **Platform Safety Standards:** Mandate PPE, emergency protocols, and mental health programs for gig workers.
- **Portable Benefits:** Ensure social security, health insurance, and psychosocial support are accessible across assignments.
- **Legal Recognition:** Clarify employer responsibility to integrate gig workers under OSHWC safety norms.<sup>41</sup>

#### **15.4 Strengthen Migrant Worker Protections**

- Implement inter-state portability for welfare and health benefits.
- Deploy mobile clinics and community counselling centres for periodic health checks and mental health support.
- Ensure digital and offline access to registration, grievance redressal, and welfare schemes.

#### **15.5 Promote Worker Participation**

- Mandate joint safety committees with empowered worker representatives.
- Provide anonymous complaint channels and mandatory training on hazards, mental health, and legal rights.

#### **15.6 Integrate International Best Practices**

- Adopt psychosocial risk assessments, work-hour limits, whistleblower protections, and data-driven monitoring inspired by EU, US, and Japan frameworks.

#### **Conclusion:**

A holistic approach combining mental health, robust enforcement, gig and migrant protections, and active worker participation is essential to ensure safe, inclusive, and future-ready workplaces, aligning India's labour standards with global best practices.

#### **16. Conclusion**

The new labour codes mark a transformative milestone in India's regulatory landscape, consolidating fragmented laws into a unified framework. The OSHWC

---

<sup>41</sup>**World Health Organization**, *Protecting Workers from Stress and Burnout: Global Guidelines* (2021).

Code, 2020, is central to safeguarding workers against physical hazards, unsafe conditions, and exploitative practices, integrating prior statutes, mandating medical surveillance, and strengthening employer duties.

However, protection remains partial. Mental health challenges—stress, burnout, harassment, and pressures from precarious employment—affect large sections of the workforce, especially in IT/ITES, finance, healthcare, and informal sectors. Gig and migrant workers often fall outside existing safety and social security provisions, underscoring the need for adaptive policies.<sup>42</sup>

Realising the Codes' objectives requires robust enforcement, enhanced inspections, and stronger penalties, alongside integration of mental health safeguards, stress management programs, and psychosocial support. Inclusion of gig, platform, and informal workers, coupled with active worker participation through safety committees and grievance mechanisms, is essential to translate legal provisions into practice.

Sustainable economic growth depends on a workforce that is physically safe, mentally resilient, and legally empowered. The success of India's labour reforms will be measured by their ability to deliver dignity, safety, and well-being across all employment contexts. By adopting a holistic, proactive approach, India can become a global exemplar of modern, humane, and inclusive labour governance.

---

<sup>42</sup>Ministry of Labour & Employment, *Migrant Worker Welfare and Portability Guidelines* (2021).