

## **Occupational Safety, Health & Working Conditions Code, 2019**

### **What is the opposition to the proposed law?**

The government needs to carry out extensive consultations with all stakeholders and recast the entire code to ensure it is actually designed to achieve what it claims to do. The trade unions across the spectrum are opposed to a ham-handed work the central government has done without the Occupational Safety, Health & Working Conditions Code, 2019 is the second one introduced in the Lok Sabha earlier in the week to rationalise disparate central labour regulations. The purpose of this one is to provide a broad legislative framework for "securing just and humane conditions of work" in a wide range of economic activities. Instead of approbation, the government faces widespread criticism for doing a poor job of it. All the central trade unions, cutting across the ideological line, have expressed their displeasure and demand thorough consultation and recasting of the Code before it is taken up for debate and passage in the Parliament.

### **What the Code says?**

The Code seeks to amalgamate 13 laws relating to factories, mines, dock worker, building and other construction workers, plantation labour, contract labour, inter-state migrant workmen, working journalists and other newspaper employees, motor transport workers, sales promotion employees, beedi and cigar workers, cine workers and cinema theatre workers. It will apply to all establishments having 10 or more workers, other than the establishments relating to mines and docks. The Code expands:

- a) the ambit of the provisions relating to working conditions of cine and theatre workers to include them in the digital audio-visual workers encompassing all forms of electronic media.
- b) the scope of journalists to include them in electronic media such as in e-paper establishment or in radio and others.
- c) the scope of inter-state migrant workers to include the workers recruited or engaged by an employer directly from one state to another and,
- d) definition of 'family' to include dependent grandparents for taking care of them in old age.

It proposes "one registration" for all establishments (with 10 or more workers) and provides for a National Occupational Safety and Health Advisory Board to recommend policy matters to the central government and State Occupational Safety and Health Advisory Boards to advise states on administration issues arising out of the Code. It empowers the government to constitute Safety Committee in an establishment or a class of establishments. It allows women to work at night, from 7 pm to 6 am, subject to safety conditions and their consent. The other features include a 'common license' for factory, contract labour and beedi and cigar establishments and introduction of a single all-India license for five years for engaging contract labour.

### **Why the Change?**

The Statement of Objects and Reasons of the Bill says the objective of repealing and replacing 13 labour laws dealing with safety, health and working conditions of workers with a single Code is to provide a broad legislative framework to ensure safe and better conditions of work, while providing necessary flexibility for making rules and regulations in tune with the emerging technologies. It says the endeavour is to simplify, amalgamate and rationalise the provisions of these laws as per the recommendation of the Second National Commission on Labour (2002).

### **All-round disapproval of the Code**

The trade unions across the spectrum are opposed to a ham-handed work the central government has done without sufficient attention to workers' safety. They want it to be reviewed by the department-related Standing Committee of Parliament in consultation with them. BMS has several objections. Its President denounces the Code as a "cut-and-paste job" with no universal application, unlike the other labour codes being contemplated.

The safety provisions have been diluted and many of the burning issues with the Contract labour Act, Factories Act, journalists' law, transport workers law etc. have not been addressed. "The Code should cover the last worker but it leaves out more than it includes by putting threshold limits, which is against the spirit of codification", he says. He also points out towards the absence of equal-wage-for-equal-work, as mandated by the Supreme Court and a universal principle for equity in the labour market that the trade unions have been demanding for long, in so far as contract labour is concerned. He demands that the code should be thoroughly reviewed. Other central trade unions, including the CITU, INTUC, AITUC and others have also expressed their displeasure, accusing the government of selectively picking up provisions (from the 13 central labour laws) advantageous to employers and grossly diluting and/or tampering all provisions pertaining to the rights and protection of workers. Their joint statement says by making the code applicable only to establishments with 10 or more workers, it is keeping 90% of the workforce from the unorganised sector, outsourced on contract and home-based, out of its purview. They have branded it as an "anti-worker and pro-employer exercise". Labour Economist Professor of the XLRI's Xavier School of Management, Jamshedpur, holds similar views. He says instead of providing safer and healthier conditions of work, the code actually exposes them to greater risks. He points to three provisions in the Code that endangers health and safety of workers:

- a) Clause 22 giving discretionary power to the government to set up Safety Committee, while this is a statutory requirement for every hazardous unit under the Factories Act of 1948.
- b) Clause 83 giving state governments power to "prescribe" maximum permissible limits of workers' exposure to chemical and toxic substances, while the 'second schedule' of the Factories Act of 1948 specifies this and,
- c) Clause 125 and 126 giving extensive powers to governments to make rules for implementing the Code, including those relating to health and safety matters. He also points out the absence of safeguards for dealing with e-waste and other such toxic and hazardous substances.

Yet another provision that he disapproves of (clause 47(2)) empowers the government to give "work-specific license", which could be renewed within such period as may be prescribed, "where the contractor does not fulfil the requisite qualifications or criteria" for supplying or engaging contract labour. He wonders how this could be justified.

As for the Indian industry, while it appreciates the attempt at simplifying the labour laws and ease in filing documents relating to health and safety measures (to one instead of multiple authorities), it is unhappy about not increasing the threshold for the Code's applicability.

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