CHAPTER – 4

LEGAL FRAMEWORK FOR IMPLEMENTATION OF LABOUR LAWS RELATED TO HEALTH, WELFARE AND OCCUPATIONAL SAFETY OF WORKERS IN INDUSTRIES
CHAPTER -4
LEGAL FRAMEWORK

4.0 Labour Standards as per International Labour Standard (ILO)

The aims and purposes of the International Labour Organization (ILO)

The International Labour Organization (ILO)\textsuperscript{23} is tripartite body i.e. employee representatives, employer representatives and the Government representatives, established in the 1919. The India is one of the pioneering members to the ILO. The preamble to the constitution of the ILO states- “Whereas universal and lasting peace can be established only if it is based upon the social justice”. And whereas conditions of the labour exist involving such injustice, hardship and privation to large numbers 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. Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries.

The fundamental principles on which ILO was enunciated as follows;

- Labour is not commodity
- Freedom of expression and association are essential to sustained progress
- Poverty anywhere constitutes danger to property every where
- The war against want requires to be carried on with unrelenting vigour within each nation and by continuous and concerted international efforts.
- All human beings irrespective of race creed or sex have the right to pursue both their material well being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.

\textsuperscript{23} International Labour Organization, Geneva-Tripartite body consisting of representatives from employers, employees and member Country-Set the labour standards for decent work at work place for workers.
The declaration made it an obligation of the ILO to further among the various nations of the world programme, which would achieve;

- Full employment and the raising standards of living
- The employment of workers in the occupations in which they can have fullest satisfaction and optimum output to make their greatest contribution to the common well-being
- The provisions of training and transfer of labour including migration of employment and settlement
- Policies in regard to wages and earning hours and other conditions of work calculated to ensure just share of the fruits of progress for all, and a minimum living wage to all employed and in need of such protection
- The effective recognition of the right of collective bargaining
- The extension of social security measures to provide the basic income to all in the need of such protection and comprehensive medical care.
- Adequate protection for the life and health of workers in all occupations
- Provisions for child welfare and maternity protections
- The provisions of adequate nutrition, housing and facilities for recreation and culture
- The assurance of equality of educational and vocational opportunity

Improvement of Labour Standards throughout the world is the basic aim of the ILO. To accomplish this task, the ILO uses three complementary methods of work, setting International standards and supervising their observance, extending technical cooperation in the field in the member/state concluding research and collecting and disseminating information relevant to its activities. With this end in view, it adopts at its General Conference, international regulations known as International labour standards in the form of Conventions and Recommendations.

4.1 Conventions and Recommendations:

A Convention is in the nature of treaty, which, if ratified, creates binding international obligations for the country concerned. The ratification of Convention requires total compliance with all its provisions unless the convention its self contains provisions to
the contrary. On the other hand, a guide to a national may be implemented in parts and to the extent possible.

The ILO has adopted, in the sessions held so far has encompassed a vast span of subjects which inter-alia includes;

- Basic human rights
- Employment
- Social policy
- Labour administration
- Labour relations
- Conditions of work
- Occupational health and safety
- Social security
- Employment of women
- Employment of children
- Older workers
- Migrant workers
- Indigenous workers and tribal population
- Workers in non metropolitan countries
- Particular occupational sectors such as Seafarers, Fishermen, Dock workers etc.

The rules of the global economy should be aimed at improving the rights, livelihoods, security, and opportunities of people, families and communities around the world." - World Commission on the Social Dimension of Globalization, 2004 has noted this fact.

Since 1919, the International Labour Organization has maintained and developed a system of international labour standards aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity. In today's globalize economy, international labour standards are essential components in the international framework for ensuring that the growth of the global economy provides benefits to all. The International Labour
Organization in 1964 resolved the convention No-121 concerning Benefits in the  
Case of Employment Injury-Convention C121 - was adopted at Geneva in 48th  
ILC session (08 Jul 1964).

The International Labour Organization (I.L.O) in the meeting of experts on the  
Revision of the List of Occupational Diseases (Recommendation No. 194)  
submitted that according to the Protocol of 2002 to the Occupational Safety and  
Health Convention, 1981, the term Occupational diseases covers any disease  
contracted as a result of an exposure to risk factors arising from work activity.

4.1.1 Safety and health at work-ILO Observation

Every day, 6,300 people die as a result of occupational accidents or work-  
related diseases - more than 2.3 million deaths per year. Over 337 million  
accidents occur on the job annually; many of these resulting in extended  
absences from work. The human cost of this daily adversity is vast and the  
economic burden of poor occupational safety and health practices (lost  
working time and interruption of production, medical expenses and workers’  
compensation) is estimated at 4 per cent of global Gross Domestic Product  
yearly.

The safety and health conditions at work are very different between countries,  
economic sectors and social groups. Deaths and injuries take a particularly heavy  
toll in developing countries, where a large part of the population is engaged in  
hazardous activities, such as agriculture, fishing and mining. Throughout the world,  
the poorest and least protected - often women, children and migrants are among the  
most affected.

The ILO places special importance on developing and applying a preventive safety  
and health culture in workplaces worldwide. Safe Work, the ILO Programme on  
Safety and Health at Work and the Environment, aims to create worldwide  
awareness of the dimensions and consequences of work-related accidents, injuries  
and diseases; to place the health and safety of all workers on the international  
agenda; and to stimulate and support practical action at all levels.
4.1.2 ILO instruments on occupational safety and health

Many ILO Conventions and Recommendations establish international standards on occupational safety and health matters. Codes of Practice and manuals provide further guidance and are used as reference material in regulation and policy. Resolutions address specific issues.

(i) Training

The training programmes on occupational safety and health arranged by the International Labour Organization cover the formulation of national policy and strategies; the strengthening of government departments (inspection systems, information centers and networks, education and training systems, research and analysis, compensation and rehabilitation systems); strategy at the sectoral and enterprise levels.

(ii) International Occupational Safety and Health Information Centre (CIS)

CIS is the knowledge management arm of Safe Work, the ILO Programme on Safety and Health at Work and the Environment. Its goal is to ensure that workers and everyone concerned with their protection have access to the information they need to prevent occupational accidents and diseases.

(iii) Encyclopedia of Occupational Health and Safety

Developed through an extensive process of consultation with leading professionals and health and safety institutions worldwide, it provides comprehensive and accurate coverage of the core and related topics of occupational health and safety.

(iv) Campaign - World Day for Safety and Health at Work

The International Labour Organization (ILO) observes the World Day for Safety and Health at Work on the 28 of April Since 2003. This global awareness-raising campaign is intended to focus international attention on emerging
International Occupational Safety and Health Information Centre (CIS)

CIS was founded in 1959 as a joint endeavor of the ILO, the International Social Security Association (ISSA), the European Coal and Steel Community (one of the predecessors of the European Union) and OSH institutions in 11 European countries. Very quickly, the CIS network of centers expanded to include members from other continents, and by now it has grown to cover 110 countries all over the world.

Occupational safety and health courses around the world – CIS is the knowledge management arm of the ILO Programme on Safety and Health at Work and the Environment (Safe Work). Its goal is to ensure that workers and everyone concerned with their protection have access to the facts they need to prevent occupational injuries and diseases.

CIS continuously monitors world literature on occupational safety and health (OSH) through its contacts with publishers and with about 150 focal points (CIS Centers) at the national and regional level around the world. Summaries and citations of the most useful publications, as well as products based on the collected information, are disseminated electronically and in print.

In addition to covering up-to-date OSH literature, CIS also considers it important to provide a basic reference service to its worldwide users by providing information on conferences and educational opportunities in the OSH field, as well as in maintaining directories of various kinds. Recently, it has also started a news dissemination service, informing readers of recent events of interest to the OSH community.

CIS has the responsibility for maintaining the electronic edition of the 4th edition of the ILO’s Encyclopedia of Occupational Health and Safety, which is available free of charge.

The data base of the activities on occupational safety and health and its outcome is maintained and published by International Labour Organization as under.
• The CISDOC bibliographic database
• Encyclopedia of Occupational Health and Safety
• International Chemical Safety Cards (ICSC)
• Occupational Safety and Health conferences and congresses all over the world

(vi) The CIS Centers Network:

The network of CIS Centers contributes to the exchange of information among persons responsible for the establishment and implementation of national policies and programmes. The CIS Network of Centers expanded over the years to 104 National, 2 Regional and 45 Collaborating Centers in 110 countries. Collaborating Centers and Regional Centers complement the National Centers, providing information to several countries in specific geographical regions.

Members of the CIS Centers Network have maintained a tradition of holding a yearly meeting since the very beginning of CIS. In years when there is a World Congress on Safety and Health at Work, the CIS Meeting is normally held in conjunction with the World Congress.

CIS celebrated its 50th anniversary in 2009. The International Occupational Safety and Health Information Centre has been around long enough to witness a complete transformation of the world of information processing, storage and dissemination, from being based on print and paper to being based on digital storage in various electronic media. During the same period, the world of occupational safety and health has also progressed from a relatively marginal position in the working environment to being a key component of what the ILO considers as the Decent Work Agenda. The future of CIS depends on paying close attention to the ongoing changes in the two components of its mandate.

4.2 Reflection on Indian Municipal Law

The basic subject matter of labour law can be considered in nine broad heads:

• Employment
• Individual employment relationships
• Wages and remuneration
• Conditions of work
• Health, safety and welfare
• Social security
• Trade union and labour management relations
• The administration of labour laws
• Special provisions for particular occupational or other groups

The labour laws in India are mainly related to employment of men, women and children, terms of employment, conditions of work, relations between employer and employees, Social security and welfare etc. These labour laws confer certain rights on the workers and certain obligations on the employers and to a certain extent, on the Government as well.

There are a large number of labour laws in India and there is a feeling that they are much too large in number and that labour is over protected and pampered at the expense of the industry. There is no doubt that the number of laws is quite large. Under the Indian Constitution labour is concurrent subject. Accordingly the Central Government as well as the State Government has enacted a number of labour laws. It can not how ever be stated that these laws provide excessive protection to the workers; firstly the scope of these laws is very limited to specified industries, employments and a classes of establishments of specified sizes and are applicable mainly to the working class. Although the scope of these laws has gradually been extended to more and more industries, classes of establishments and activities including agriculture, cottage and village industries, the self employed as well as the administrative and supervisory staff, the labour laws in India are still in an early phase of development as compared to those of the developed industrialized countries where the bodied of laws originally intended for the protection of the working class have gradually been transformed into broader welfare legislation and with the gradual extension of the laws in to self employed, the scope of the laws has gone beyond employment relationship and covers a much wider ground aimed at improving the living and working conditions of all disadvantaged groups who need protection. Secondly the laws
and the practices in India also fail short of the various standards set by the International Labour Organization and the United Nations so much so the Government not been able to ratify most of the International conventions and recommendations.

There is however lack of understanding or misunderstanding of the laws on the part of many people, with the result that many of those who employ labour and have the primary responsibility to implement or at least to observe laws, very often violet them, willingly or unwillingly, defeating their purpose and in bargain put themselves against the law with attendant consequence. It seems therefore necessary that the employers, the workers themselves as well as the Government officials charged with the responsibility of enforcing the law should not only know the laws but also have an understanding of the spirit behind the laws.

4.2.1 Reflection upon Indian Municipal Labour Legislation

Economic and Social situation of Labour

Till the global economic crisis hit India in 2008, Indian economy had been growing at an appreciable 7-8% per year. But this growth rate hides under it a number of weaknesses of Indian economy, including the growing inequalities between different sections of the society as also the economic sectors. Rising growth rates have not been accompanied by redistribution of wealth. Even as per the official poverty estimates, about 1/3rd of the population lives below the poorly defined poverty line. What is also of concern is the ‘job-less’ nature of this economic growth. It is not enough to stretch out in the glory of technology sector which employs only 1.3 million people out of the labour force of over 470 million. Between 1993 and 2005, despite higher economic growth, annual growth rate of employment declined to 1.85% from 2.03% and most of this growth has been in the informal economy. India’s young population which is much touted as its comparative advantage remains illiterate, underfed, unskilled and unemployed or underemployed – which is a colossal waste of the nation’s development potential.
It is also to note the findings of the report of the National Commission for Enterprises in the Unorganized Sector titled ‘Challenges of Employment in India: An Informal Economy Perspective’ which has pointed out declining growth rate of wages under all categories of workers, including casual labour between 1993 and 2005. The Convention agrees with the observation of the National Commission that ‘Instead of creating a level playing field, policies of the government have focused on creating special playing fields for large corporate entities, undermining micro and small enterprises that provide productive employment to the growing labour force.’

The main obstacles to the democratic development aspirations of India remain poverty, unemployment, educational and social backwardness of many of its people, including particularly women.

4.3 Labour market situation:

India is a country of over 1 billion people, with a workforce of over 470 million, majority of who work in the unorganized, informal sectors²⁴. At best 8% of this workforce can be said to be working in some semblance of Decent Work conditions. While absolute number of those unemployed in the country is alarming (over 4 crores), it is the plight of the underemployed - the majority of the workforce that works in the informal economy, on contract/casual, daily wage basis – that needs even more attention since it is these workers who cannot afford to be unemployed and hence are compelled to work under any conditions. Women form a significant proportion of these workers in informal economy and need urgent attention of the government.

The declining growth of agriculture from 3.8% to 1.5% is further deteriorating the unemployment situation leading to a very large number of petty peasants to join the ranks of agricultural workers and the later joining the slums in towns and cities as

²⁴ Labour market situation in global context in India-Sorce:www.hmsindia.org.in
casual workers. In fact, the number of these workers has gone up from 7 crores in 1990’s to 11 crores in 2008. The common minimum programme of the Government had provided for enactment of a separate law for agricultural workers which to some extent would have helped to tackle this situation. Unfortunately, the law was never enacted.

Every year some 12 million job seekers enter the work force with hardly any new jobs being created in the organized sector. Increasing unemployment, especially the crisis of the educated unemployed, is also reflected in growing terrorism and crime in the country. As the formal sector shrinks, millions are forced to work in the informal sector at barely survival wages with no social security or other labour rights. The purchasing powers are stagnant for most of them and declining for many. Therefore it is the need of the day for the Government to take immediate steps for social protection and implementation of living wages for these workers – a benchmark below which no one should be employed in Indian economy.

Reference: website: hmsindia.org.in

4.4 Indian Constitution and Concept of the Social Justice

Preamble of the Constitution of India reads as under;

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;
LIBERTY, of thought, expression, belief, faith and worship;
EQUALITY of status and of opportunity;
And to promote among them all
FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, DO HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.
4.4.1 Fundamental Rights

23. Prohibition of traffic in human beings and forced labour –

(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

24. Prohibition of employment of children in factories, etc.

No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

4.4.2 Directive Principles of State Policy

37. Application of the principles contained in this Part –

The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

38. State to secure a social order for the promotion of welfare of the people –

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

39. Certain principles of policy to be followed by the State –
The State shall, in particular, direct its policy towards securing –

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

39A. Equal justice and free legal aid –

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Reference: The Constitution of India by Shri P M Bakshi

4.5 Concept of welfare State

In India the concept of a Welfare State was accepted decades ago. During the British regime, social Welfare was not among the principal objectives of the Government. The emphasis then being on maintaining law and order and also on
facilitating the economic exploitation of the Indian people by British economic interests. But since the dawn of independence in 1947, the Indian leaders have earnestly sought to establish a Welfare State. The constitution of India, which was drafted after a good deal of discussion in the constituent assembly by the country's ablest people of all communities, seeks to establish a Welfare State. The Preamble of the Constitution clearly indicates "general welfare" of the people as one of the objectives of the Union of India. The Preamble aims "to secure to all its citizens justice, social, economic, and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity."

The Preamble to the Constitution enunciates the great objectives and the social goals for the achievement of which the Indian constitution has been established. There objectives are to secure to all citizens of India social, economic and political justice; to secure to all Indian citizens liberty of thought, expression, belief, faith and worship; to secure to them equality of status and opportunity; and to promote among them fraternity so as to secure the dignity of the individual and the unity of the nation. The Indian constitution having been conceived and drafted in the mid-twentieth century an era of the concept of social Welfare State—is pervaded with the modern outlook regarding the objectives and functions of the State. It embodies a distinct philosophy of government, and, explicitly, in articulate terms, declares that India will be organized as a social Welfare state, i.e. a state which renders social services to the people and promotes their general welfare. In the formulations and declarations of the social objectives contained in the Preamble, one can clearly discern the impact of the modern political philosophy, which regards the state as an organ to secure the good and welfare of the people.

This concept is further strengthened by the Directive Principles of State Policy which set out the economic, social and political goals of the Indian constitutional system. These directives confer certain non-justifiable rights on the people in the form of directions to the State to achieve and maximize social welfare and basic social values like education, employment, health etc. In the directive principles the philosophy of welfare is very much pronounced and well developed. In consonance with the modern beliefs of man, the Indian constitution takes due care to set up a
machinery so as to enable the state to march forward towards the goal of an economic democracy along with political democracy for the latter would be meaningless without the former in a poor country like India; it lays special emphasis on land and places the government under an obligation to take necessary steps to that end.

Although the words "Welfare State" are not specifically mentioned into the Constitution, the aims and objectives clearly point to such an entity. Moreover, what is not specifically stated in the Preamble is mentioned in the Directive Principles of State Policy. Article 38 of the Chapter defining these Directives runs as follows: "The State shall strive to promote the welfare of the people by securing and protecting, as affectively as it may, a social order in which justice, social economic and political, shall inform all the institutions of national life." Article 39 of the Directive Principles lays down aims and objects which unmistakably indicate the broad policy the Government of India (and the Slate Government) expected to follow and all these are designed to lay the right foundation for a Welfare State.

The Directive Principles of State Policy in the constitution of India are perhaps the most exhaustive in the constitution of any democratic country outside the communist bloc. Every possible effort has been made to include all available means to ensure social and economic justice which broadly speaking, long the basic foundations of a Welfare State. These cover adequate means of livelihood, ownership and control of the means of production, the health and general well-being of all sections of the people, especially, the young, the old and women the relatively weaker sections of society. These groups generally need special protective measures in almost every set-up. The Directives also seek to eliminate, as far as possible, the exploitation of people by others and lay down the universal principle disapproving of the concentration of wealth and of the means of productions, covering, by implication, both the agricultural and the industrial spheres.

The Directives go even further. They provide for just and humane conditions or work and maternity relief, for free and compulsory education of children, promotion of educational economic interests of the backward and weaker sections of society, raising of 'the level of nutrition and the standard of living and organization of
agriculture and animal husbandry. These aims are specified in Articles 42, 45, 47 and 48.

Pandit Jawaharlal Nehru had distinct concept of a Welfare State and gave some vital clarifications in this regard, Apart from the generally accepted stipulations, he said in Parliament, once on February 2, 1953, and again on February 17, the same year that "a Welfare State has no meaning unless every individual is properly employed and takes part in nation-building activities. When there is unemployment, he felt, there could be no Welfare State. In any case the unemployed people—and their number runs into millions—are not parties to the Welfare State but "outside its pale". He also affirmed that "to realize the ideal of a Welfare State requires hard work, tremendous effort and co-operation". According to his concept India may not become a Welfare State for many decades yet because the unemployment problem was unlikely to be solved for many years to come.

Pandit Nehru also drew a distinction between a Welfare State and the Socialistic pattern of society. It is true that a socialistic economy must provide for a Welfare State but it does not necessarily follow that a Welfare State must also be based on a socialistic pattern. "We cannot have a Welfare State in India", he added "with all the socialism or even communism in the world unless our national income goes up substantially. Socialism or communism might help you to divide. Your existing wealth, if you like, but in India there is no existing wealth for you to divide; there is only poverty to divide.

The people's happiness—the ultimate aim of a Welfare State—can be assured only when every one has enough to eat, some shelter in the form of a house, or at least a modest roof over his head, some work to do so as to able to earn a living and some opportunities to contribute to nation-building, which implies constructive activity. Besides, everyone must also have the means to satisfy his basic needs, consumer goods etc. Everything, as Pandit Nehru said, has ultimately to be judged in terms of human welfare, and the only worth while yard stick we can employ is the happiness of our people.
4.6 **Legislative Framework to safeguard the health and welfare of workers in industries including Pharmaceutical and Bulk Drug industries**

The following labour laws have expressive provisions for the health, welfare and safety of the workers working in industries / factories.

- The Factories Act, 1948
- The Contract Labour (Regulation and Abolition) Act, 1970

4.6.1 **The Factories Act, 1948**

The Factories Act, 1948 is meant to provide protection to the workers from being exploited by the owners of the establishments and it also provides for the improvement of working conditions within the factory premises. Hence, a beneficial construction should be given and the provisions of the Act should be so construed/interpreted so as to achieve its object, i.e., the welfare of the workers and their protection from exploitation and unhygienic working conditions in the factory premises. To take care of the health of workers in factories, the Factories Act, 1948 has provided for certain measures which are stated below:

4.6.2 **Provisions for the Health related aspects of the workers**

(i) **Health related provisions**\(^{25}\) for the workers at work site such as General Cleanliness, Disposal of wastes and effluents, Ventilation and temperature, Dust and fume, artificial humidification etc. have been provided under the Factories Act, 1948.

(1) The Act provides that every factory shall be kept clean and free from effluvial arising from any drain, privy or other nuisance and in particular there should not be accumulation of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages and disposed of in a suitable manner. The floor of every workroom shall

\(^{25}\) Provisions for health of workers **Section-11 to 20** under the Factories Act, 1948
be cleaned at least once in every week by washing, using disinfectant where necessary, or by some other effective method.

Further, where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided as maintained.

All inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall- painted otherwise than with washable water paint or varnished, be repainted at least once in every period of five years and records of the same shall be kept in the prescribed register.

The Act provides for the effective arrangements in every factory for the treatment of wastes and effluents due to the manufacturing process carried on therein, so as to render them innocuous, and for their disposal. The State Government may make rules prescribing the arrangements to be made.

The Act provides for adequate ventilation, circulation of fresh air, and such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health; and in particular, walls and roofs shall be of such material and so designed that such temperature shall not be exceeded.

In the cases where there is possibility of excessively high temperature, such adequate measures by insulating the hot parts or by other effective means should be taken.

The Act provides the effective measures to prevent the inhalation and accumulation of dust and fumes in any workroom, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(ii) Overcrowding, Lighting, Drinking water, Latrines and urinals, Spittoons etc.

In respect of all factories in which the humidity of the air is artificially increased, the State Government may make prescribing standards of humidification, regulating the
methods used for artificially increasing the humidity of the air; prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

The Act provides that no room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

The Act provides that every part of a factory where workers are working or passing, there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both. All glazed windows and skylights used for the lighting of the workroom shall be kept clean on both the inner and outer surfaces.

The Act provides that every factory should have sufficient supply of wholesome drinking water. Further, the factory employing more than two hundred and fifty workers there should be facility of cooling drinking water during hot weather.

The Act provides that there should be sufficient latrine and urinal accommodation of prescribed types separate for male and female workers to be provided and shall be conveniently situated and accessible to workers at all times while they are at the factory. These latrine and urinal should be kept clean with sanitation facilities.

The Act provides that there should be sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition. Further it should be ensured by factory management that no person shall spit within the premises of a factory except in the spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.
4.6.3 Provisions for the welfare of the workers

(i) Welfare provisions for worker at work site such as washing facilities, Facilities for sitting, First-aid-appliances, Canteens, Shelters, rest-rooms and lunch-rooms, Crèches, Welfare Officers etc. have been provided under the the Factories Act, 1948.

The Act provides should have adequate and suitable facilities for washing separate and adequately screened facilities shall be provided for the use of male and female workers. Such facilities shall be conveniently accessible and shall be kept clean.

The Act provides that factory there should be arrangements for sitting for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

The Act provides that there should be well maintained first-aid box readily accessible during all working hours and factory employing more than five hundred workers should have well maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed and those facilities shall always be made readily available during the working hours of the factory.

The Act provides that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

The Act provides that factory employing more than one hundred and fifty workers should have shelters or rest-rooms and a suitable lunch-room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers.

Provisions for the welfare of the workers Section 42 to 50 under the Factories Act, 1948.
The Act provides that factory employing more than thirty women workers should have well maintained clean room or rooms for the use of children under the age of six years and women shall be under the charge of women trained in the care of children and infants.

The Act provides that factory employing more than five hundred or more workers should employ such number of welfare officers with prescribed qualification.

4.7 The Contract Labour (Regulation and Abolition) Act, 1970

4.7.1 Provisions for the health and welfare of the contract workers at work site such as General amenities, Rest Rooms, Canteens, Latrines and Urinals, Washing Facilities, First-Aid Facilities etc. have been provided under the Contract Labour (Regulation and Abolition) Act, 1970.

The Act provides that the contractor or principal employer as the case may be should provide sufficient supply of wholesome drinking water, sufficient number of latrines and urinals, washing facilities and first-aid facilities to contract labour.

The Act provides that the contractor or principal employer as the case may be should provide well maintained, clean rest rooms separate for male and female contract workers where is required to halt at night in connection with the working of the establishment.

The Act provides that the contractor or principal employer as the case may be wherein work regarding the employment of contract labour is likely to continue for six months and wherein contract labour employed are one hundred or more should provide the facility of canteen to contract workers. The canteen shall consist of at least a dining hall, kitchen, store room, pantry and washing places separately for workers and for utensils. The canteen shall be sufficiently lighted at all times when any person has access to it. The charges for foodstuffs, beverages and any other items served in the canteen shall be based on ‘no-profit, no loss’ and shall be conspicuously displayed in the canteen.

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27 Provisions for the health and welfare of the contract workers - Section 16 to 21 under the Contract Labour (R&A), 1970.
The Act provides that there should be sufficient latrine and urinal accommodation of prescribed types separate for male and female workers to be provided by contractor or principal employer and shall be conveniently situated and accessible to workers at all times while they are at the factory. These latrine and urinal should be kept clean with sanitation facilities.

The Act provides should have adequate and suitable facilities for washing separate and adequately screened facilities shall be provided for the use of male and female workers. Such facilities shall be conveniently accessible and shall be kept clean.

The Act provides that there should be well maintained first-aid box readily accessible during all working hours and factory employing more than five hundred workers should have well maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed and those facilities shall always be made readily available during the working hours of the factory.

4.8 Administrative Frame work for implementation of the Factories Act, 1948 and the Contract Labour (Regulation and Abolition) Act, 1970

4.8.1 Directorate of Industrial Safety & Health (DISH):

Functions of the Department are to implement the following Labour Laws:

- The Factories Act, 1948 and the Gujarat Factories Rules, 1963
- The Environment Protection Act, 1986
- The Manufacture, Storage and Import of Hazardous Chemical Rules, 1996
- The payment of wages Act, 1936 and rules there under
- The Maternity Benefit Act, 1961 and rules there under
- The Gujarat Physically Handicapped Persons (Employment in Factories) Act, 1982
- The Gujarat payment of unemployment Allowance to workman (in factories) Act, 1981
- The Building and Other Contraction Workers’ (Regulation of Employment and Conditions of Service) Act, 1996 and Rules there under
Activities:

- To create awareness for Health & Safety amongst workers and factory management through seminars and other programs.
- To update with the latest trend department arrange the Safety Conference every year.
- To encourage and appreciate the workers contribution in the industry by Shram Awards
- To facilitate implementation of various welfares schemes for Construction workers.
- To conduct required Health & Hygiene Survey in various industrial sectors.

4.8.2 Organization Set-up / Administrative set up\textsuperscript{28} of the Directorate of Industrial Safety and Health, Gujarat State.

Factory wing is headed by Director, Industrial safety and Health, Gujarat State. For efficient administration and effective control state is divided in to four regions namely Ahmedabad, Vadodara, Surat and Rajkot. These regions are under control of Joint Director, Industrial Safety & Health.

The history of Factories Act is more than 100 years old. First time the Indian Factories Act was enacted in 1881. After independence, 'The Factories Act, 1948'

\textsuperscript{28} Administrative Frame work for implementation-Labour and Employment department, Government of Gujarat-Source-www.labourandemployment.gov.in
was made applicable in the country mainly to regulate health, safety, welfare and working conditions of industrial workers. It has been amended from time to time, but the major amendments were enacted in 1976 and in 1987, wherein emphasis has been laid on safety in general and chemical safety in particular. To strengthen safety in chemical factories, Government of Gujarat amended the ‘Gujarat Factories Rules, 1963. To look after welfare of female workers, Lady Inspector of Factories has also been appointed under the Factories Act, 1948. All Inspectors have been declared as Assistant Public Prosecutors for the purpose of the Factories Act, 1948 and Rule there under.

The Director, Industrial Safety and Health, Gujarat State has also been declared authority under certain section of Environment Protection Act, 1986 and Manufacture, Storage, Import of Hazardous Chemicals, Rules, 1989, as amended in 1994.

Under Environment Protection Act, 1986, the Government of India has framed Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996, where the Assistant Director / Deputy Director of Ind. Safety and Health performs the duties as Member Secretary of various crisis groups constituted under these rules throughout the state.

The Inspectors appointed under the Factories Act have also been appointed as inspectors under the Payment of Wages Act, 1936, so far as the factories registered under the Factories Act, 1948 are concerned. The officers of this wing have also been notified as Inspectors under Maternity Benefit Act, 1961 & The building and other construction workers (Regulation of Employment and conditions of service) Act, 1966

The Government of Gujarat has enacted Gujarat physically Handicapped persons (Employment in Factories) Act, 1982. Under this legislation all Inspectors have been appointed as Inspector for implementation of this Act. It applies to factories employing 100 or more workers. Under this Act employers are required to allocate and appoint 1% of total employment for physically handicapped persons.

The Government of Gujarat has also enacted "The Gujarat Payment of Unemployment Allowances to Workmen (in Factories) Act, 1981". The employer is required to pay 50% wages to workers in the event of power-cut, if he is unable to provide alternative employment to workers within 8 Kms form the normal working place provided that the power cut is notified by Government. This wing also looks after the implementation of this Act.
The department being technical in nature, the officers appointed are mostly engineers. The inspector appointed under the Factories Act have also been appointed as inspector under the Building and Other Construction Workers (RECS) Act, 1996, Director, Ind. safety and Health has been appointed as Chief Inspector of Inspections of Building and Construction under the same Act.

Moreover one Dy. Directors (chemical) has been appointed for assisting and advising Dir. Industrial Safety & Health about hazards and safety in chemical factories.

To assist legal matters, Law officers have been appointed in Ahmedabad and Vadodara Regions. To measure and monitor the ill effects of chemicals, cotton dust, Asbestos dust and Silica dust etc., Industrial Hygiene Laboratory has been established under the Director Industrial Safety Health. It is headed by Dy. Director (Medical) consists of Medical Inspectors of Factories, Certifying Surgeons and other technical staff.

4.8.3 Implementation Details- The Factories Act, 1948

Details of Inspections, prosecutions, cases filed, cases disposed and fine imposed for violation of the Provisions of the Factories Act, 1948 in registered factories including pharmaceutical and bulk drug units from 2006 to 2010 is as under.

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Inspections</th>
<th>No. of Prosecutions</th>
<th>Cases disposed (Including of previous year)</th>
<th>Fine imposed (In Lacs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>14769</td>
<td>2907</td>
<td>2566</td>
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<td>2007</td>
<td>13123</td>
<td>2369</td>
<td>5177</td>
<td>121.00</td>
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<td>11062</td>
<td>2286</td>
<td>1933</td>
<td>59.94</td>
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<td>2010</td>
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<td>62783</td>
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<td>11937</td>
<td>315.36</td>
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</tbody>
</table>
4.9 Labour Commissionerate

Functions:

- The effective implementation of Labour Laws to provide social security net to Urban unorganized sector labour.
- To maintain industrial peace, harmony and cordial relations.
- To maintain and protect rights and reduce exploitation of the workers.
- To provide social security net to workers and carry out welfare activities for the down trodden people.
- Raising the living standard of the industrial workers.
- Helping in stimulation of the industrial growth.
- The major decisions while framing the Labour Policy are taken after tri-partite consultations.
- Survey and rehabilitation of child labour as per National Child Labour Projects scheme guide lines in all the districts of the state.

Source: www.labourandemployment.gov.in
Reforms in labour laws and procedures.
Promoting the existing schemes of reforms, feedback studies etc.
Promoting Lok adamants.

**Overview of Labour Commissionerate:**

The main objective of the labour department in the state is to provide industrial safety, peace and harmony without jeopardizing the interests of working force and special thrust is being given for the safety security & health of the unorganized sector workers in the state.

The State Labour Commissionerate is formed to formulate industrial friendly policy to simplify the complexity of various Labour Laws. As part of it, formulation of policy to reduce quantum of inspection that is complaint based inspection under various Labour Laws, simplified and Consolidate Annual Return for various Labour Laws is under active consideration. The State Labour Commissionerate is of firm view to have "Umbrella Legislation" for informal sector labour in the state to provide social security and other benefits to informal sector labour which comprises 93% of the total-workforce.

State Government has promised to provide stimulating atmosphere to industrial adventurers in the field of capital investment to industries, business and business departments. Looking of the globalization and position in the changed condition at the international level. The enforcement machinery of the labour department ensures effective implementation of labour laws and ensuring and protecting the rights of working force provided under various labour laws. Gujarat state is thus provided as a model state in this regard.
4.9.1 Organization Set-up of the Labour Commissionerate:

**Administrative Set up of Labour Commissionerate**

- Labour Commissioner
- Additional Labour Commissioner
- Deputy Labour Commissioner
- Assistant Labour Commissioner
- Deputy Director (Statistics)
- Government Labour Officer
- Research Officer

**Administrative Set up of Labour Commissionerate at Regional Offices (Rajkot, Ahmedabad, Surat and Vadodara)**

- Labour Commissioner
- Additional Labour Commissioner
- Deputy Labour Commissioner Ahmedabad
- Deputy Labour Commissioner Surat
- Deputy Labour Commissioner Vadodara
- Deputy Labour Commissioner Rajkot
- Asst. Labour Commissioner
- Govt. Labour Officer
- Asst. Labour Commissioner
- Govt. Labour Officer
- Asst. Labour Commissioner
- Govt. Labour Officer
- Asst. Labour Commissioner
- Govt. Labour Officer
4.9.2 Implementation Details: Contract Labour (Regulation and Abolition) Act, 1970

Details of Inspections, prosecutions, cases filed, cases disposed and fine imposed for violation of the Provisions of the Contract Labour (Regulation and Abolition) Act, 1970 including pharmaceutical and bulk drug units from 2006 to 2010 is as under.

**Details of the Contract Labour (R&A) Act, 1970**

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspections</th>
<th>No. of Prosecutions</th>
<th>Cases disposed (Including of previous year)</th>
<th>Fine imposed (In Lacs)</th>
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<td>763</td>
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<td>678</td>
<td>3138</td>
<td>4.14</td>
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<tr>
<td>Total</td>
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<td>11332</td>
<td>6062</td>
<td>33.41</td>
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</table>

*Source: www.labourandemployment.gov.in*
Implementation Details - Contract Labour Act - 1972

<table>
<thead>
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<th>Year</th>
<th>Cases disposed (including of previous year)</th>
<th>No. of Prosecutions</th>
<th>Inspections</th>
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<tbody>
<tr>
<td>2010-11</td>
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<td>3571</td>
</tr>
</tbody>
</table>

Notes:
- Cases disposed (including of previous year)
- No. of Prosecutions
- Inspections