INVESTING AND OPERATING IN INDIA.

THE OCCUPATIONAL AND WORKPLACE HEALTH RISKS FROM A COMPLIANCE AND DUTY OF CARE PERSPECTIVE

A COMPREHENSIVE GUIDE FOR FOREIGN ORGANISATIONS OPERATING IN INDIA

PREFACE

India, a growing economy and the world's largest democracy, has a population exceeding 1.2 billion. The industrial and corporate presence in India has shifted its focus on occupational health practices both from a compliance and a duty of care perspective.

Over the past few years, the country has seen several changes in its social, political and environmental conditions, and businesses are required to adapt to these changes. While significant progress has been made, healthcare trends in India have been and remain consistent with challenges other emerging countries face.

The importance of ensuring healthcare access cannot be overstated for a country such as India. Apart from the linkage to the wellbeing of citizens, good healthcare influences the productive capacity of its population, thereby enhancing economic growth of the country. Many Indian and multinational corporations (MNCs) are beginning to look at employee health with a keen focus and therefore, having access to quality healthcare for the workforce is a common concern.

Infectious diseases pose an increasing threat to the health and wellbeing of the workforce. Non-communicable diseases (NCDs) are increasing across the globe at a very rapid rate, forcing organisations to re-evaluate their existing health and wellness programmes, a scenario extremely important in India given the size of their workforce.

Organisations, which face diverse human resources (HR) environments, find themselves laying increasing emphasis on engaging and retaining talent by combatting high turnover, absenteeism and lost time in order to prevent risks and maintain business continuity. The magnitude and complexity of the workforce required to drive economic growth makes it imperative for emerging economies to focus on occupational health as an integral part of corporate growth strategies.

This paper will address the current health landscape and summarise the occupational health and safety (OHS) regulations and requirements that organisations must respect in India for legal and reputational reasons.

However, besides pure compliance, productivity gains, risk avoidance and sustainability are also at stake. This paper shares the international best practices and their adaptation to the Indian environment.

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INTRODUCTION

India is increasingly becoming a preferred location for multinational corporations. A booming economy, agile and literate workforce, and lower costs make it an attractive place to set up operations.

With the increasing opportunities for organisations to invest and operate in India, it also brings forth challenges in mitigating occupational and workplace health risks. With a population exceeding 1.2 billion, India has a strong workforce of over 465 million. However, only 20 percent of them are covered under the existing health and safety legal framework.

As human capital is recognised by many organisations as the most important asset to thrive, operating in India requires a robust focus on occupational healthcare taking into account various challenges. To name a few:

— A constantly changing and unpredictable occupational, health and security risk ecosystem
— A shortage of OHS professionals
— An inadequate implementation of existing legislation
— Multiplicity of statutory controls

From Occupational Health Compliance to Occupational Health Performance

OHS is no longer limited to individuals working in physically demanding jobs or exposed to industrial/regulated environments. It now influences a larger section of the Indian workforce, especially in the service sector where companies may not recognise significant occupational risks, but have to manage the consequences of emerging risks, such as NCDs and other HR challenges impacting profitability and sustainability.

NCDs present a rapidly growing concern adding to the existing and traditional OHS challenges, such as accidents, pneumoconiosis, musculoskeletal injuries, chronic obstructive lung diseases, pesticide poisoning, noise-induced hearing loss and infectious diseases.

Ensuring employees are not only physically fit to work but also provided with an environment supporting, motivating and empowering them to do their jobs is becoming a major differentiating success factor.

This document provides the current Occupational Health and Safety and workplace challenges in India, suggests a framework of regulations, requirements and best practices in order for organisations to protect their workforce and improve productivity.

The Outcomes of Non-Compliance

Non-compliance with the regulatory framework and safety provisions in India can result in large financial penalties, imprisonment and other strict legal actions, including enforced site closures. These issues apply to every organisation doing business in India. In particular, overseas companies operating in India:

— Could draw increased attention from government authorities and media in adverse situations.
— Could face, in some cases, additional challenges, such as language problems, lower literacy rates and other country-specific socioeconomic factors.

Occupational Health and Safety Environment in India

Preferred Business Destination	Foreign companies operating large back offices, BPO, research centres, manufacturing units
Dynamic Business Environment	Complicated and increasingly unpredictable health, medical and security ecosystem
Diverse HR Environment	Talent, high turnover absenteeism, lost time
Healthcare Trends	Infectious diseases and NCD/lifestyle diseases are structurally higher
Customised Approach	Inconsistent access to quality healthcare
	Need to consider adopting western world methods to avoid a high risk of inefficiency
Leading by Example	Some companies have understood the challenges of the environment and turn it into a competitive advantage

BUSINESS IMPACT OF WORKPLACE HEALTH

Creating a healthy workplace strongly impacts the productivity, performance, vision and mission of an organisation that is either operating in, or looking to, establish its operations in India.

Due to the variety of industries present in India, there are varying trends in occupational related health conditions from one industry to another. A few common occupational health related conditions encountered in heavy industries, and in those categorised as having hazardous operations, include noise-induced hearing loss, vibration-related disorders and poisoning.

However, in recent years, similar to the rest of the world, India has faced the human and economic threat posed by NCDs. These, generally long-term health conditions, such as heart disease, stroke, diabetes, and mental and neurological diseases, have an overwhelming influence on individuals' health and performance at work and thereby an impact on business.

Some of the key health risks at workplaces in India are:

Workplace Accidents and Injuries (Industry Specific)

Accidents, and resultant injuries, account for one of the significant challenges encountered in an Indian workplace, not only in an industrial setting but also in urban environments. In 2014, approximately 19,000 major accidents resulted in around 12,000 fatalities (the National Institute for Occupation Safety and Health (NIOSH) report).[1]

While enforcing good safety practices is very important, it is also pertinent for workplaces to be prepared in mitigating the impact of unavoidable incidents by focusing on emergency medical preparedness.

An accident victim can experience discomfort, anxiety and a potential impact on their livelihood depending upon the extent of injury. However, it is not always easy to quantify impacts, including costs, on an organisation.

A few direct and indirect costs faced by organisations in such a scenario can include:

— Cost of hospitalisation and rise in
   insurance premiums
— Production time and cost
— Investigation time and cost
— Replacement time and cost
— Overall reduced productivity
— Compensation and legal costs, etc

Emergency Management in India: Did You Know?

Healthcare in India has evolved considerably over the past few years. There are some hospitals in the major cities where the standard of care is very good. However, this standard is not consistent across the country and wide variations are commonly noticed.

In addition, pre-hospital care in India is in its infancy. Although some initiatives are seen in a few states in India, it is quite limited in availability and quality. A few challenges faced by this sector include:

— A scarcity of professionals in the pre-hospital sector. The concept of professional emergency medical technicians (EMTs) and paramedics is new to the country and hence certified professionals are not available. There is no national or standard certification or training available for healthcare professionals in pre-hospital emergency care. A few private institutions and some state governments have launched initiatives, but overall the availability of emergency stabilisation services across India is scarce.
— Doctors and nurses who are trained in hospital-based treatment are compelled to operate in the pre-hospital environment due to a lack of professionals in this space. This results in sub-optimal responses as they are not appropriately trained for this environment.
— There is no national standardisation of ambulances in the private or public sector. Most local ambulances are found to be just a mode of transport and do not provide the patient with any upgrade of care facilities or appropriate monitoring during the transfer to a hospital.
— Traffic in India, furthermore at the heart of Metro Cities at peak times, makes access to hospitals extremely difficult within the "Golden Hour" of a life/limb-threatening emergency. Response times of ambulances and emergency vehicles are most often unacceptably high.

As a result of the above-mentioned challenges, most standard medical emergency management strategies (e.g. "Scoop & Run"/"Stay & Play") are difficult to implement in India. Customisation and reinforcement of pre-hospital preparedness is crucial for businesses, and employers' Duty of Care cannot be fulfilled through local hospital partnerships/implants or standby ambulances alone.

[1] www.nioh.org/publications/OHS_Profile_India.pdf

Illnesses within the Workplace

A working population can be exposed to various types of illnesses including:

— Communicable Diseases, such as flu, tuberculosis, etc. which are the result of social contact;

— Some are the result of environment influencing the workplace, e.g. heat stroke;

— Other illnesses that are chronic in nature and are categorised as Non-Communicable Diseases (NCDs), e.g. diabetes, cardiovascular diseases, etc.;

— Last, but not least, there are illnesses that are the result of occupational exposure, e.g. noise-induced hearing loss, asbestosis, etc.

Employees are the most valuable asset that organisations have. Therefore an holistic approach to an employee's wellbeing includes focusing on preventing and managing occupationally caused illnesses as well as:

Communicable Diseases:

The recent trend indicates an increase in the incidence of communicable diseases in India overall and this is also seen at typical workplaces. Since India is a tropical country, unlike the temperate zone countries, it is common to see respiratory infections, including cold and flu, and also bacterial infections transmitting actively throughout the year. Food-borne and waterborne infections are also seen to spread commonly. Workplaces are common transmission spots for these communicable illnesses as people work together in close proximity. Infection control practices and raising awareness are key steps that businesses need to implement, with an aim to reduce productivity loss due to communicable diseases.

Non-Communicable Diseases (NCDs):

NCDs have become a major public health problem in India. Among NCDs, cardiovascular diseases, cancers, chronic respiratory diseases and diabetes are estimated to account for 60% of all deaths and cardiovascular diseases are among the leading ten causes of adult (25 to 69 years) deaths. Furthermore, NCDs account for about 40% of all hospital stays and roughly 35% of all recorded outpatient visits.

In macroeconomic terms, most of the estimates suggest that NCDs in India account for a significant economic burden in the range of 5% to 10% of gross domestic product (GDP). Their negative impact on output, profitability and economic growth poses a significant workforce challenge.

NCDs are increasingly, and directly, related to workforce productivity as they raise rates of absenteeism, presenteeism, and have negative impact on morale and the focus of employees. The NCD trend is worsening drastically in India and is seen as a threat which could materially impact healthcare costs, as well as the productivity of organisations.

With its solid base of evidence, businesses in India would benefit by reorienting the dialogue about investing in healthy living and NCD prevention programmes for a sustainable economic growth. The focus should be on designing and implementing policies and programmes to prevent and control NCDs among their workforce and build interventions aimed at promoting a healthy, low-stress lifestyle with a measurable impact.

Healthcare costs for employees are disproportionate in India as the insurance limits are quite low. This results in an increased burden on them in the case of a serious or chronic health condition.

Looking at the trends in the international insurance sector, India may too experience a rise in insurance premiums, with increasing NCD impact along with better coverage and limits. Investing in programmes directed at reducing the NCD burden is a sure way to keep current, and potentially future, costs in control.

Occupational Diseases:

Commonly encountered occupational diseases in India include silicosis, asbestosis, noise-induced hearing loss, pesticide poisoning and musculoskeletal disorders. Exact prevalence of these diseases is difficult to quantify as reliable data is not available. The data gathering is typically in the 'organised' sector and does not include the 'unorganised' sector, thus diluting its use to reinforce actions and policies further.

Awareness of occupational diseases is found to be low across India and its reporting is not very consistent. Factors influencing this issue include lack of reliable diagnosis, follow-ups and apparent shortage of occupational health specialists in the country.

Mental and Psychosocial Hazards

In India, it is customary to think firstly of the physical hazards that could effect the safety of a workforce, and influences of mental health issues often go unrecognised. In fact, there are incidences to support that psychosocial hazards are both directly and indirectly associated with workplace injuries.

The social stigma associated with reaching out for help in times of stress or depression means that the majority of the productive workforce continues to suffer undetected. An employee experiencing a psychosocial condition may not be in the best position to manage a delicate task in a hazardous industrial environment, or be best placed to take a decision that impacts others in a corporate environment.

Organisations largely depend upon highly functional, innovative and high capacity employees to create a competitive edge and stay ahead of competitors. Poor mental health and job dissatisfaction related to work-family conflicts are the few detrimental causes that could have a significant impact on productivity at work and may have other direct and indirect costs to businesses.

Violence and Safety

Amongst other challenges at a typical workplace, violence in the workplace is a prominent concern for organisations. While many instances of workplace violence often go unreported, damage to property and physical harm to employees can result in attention from the media. The potential reasons seen to contribute to workplace violence include an imbalance between effort and reward, resulting in a sense of injustice or unfairness amongst workers. This leads to feelings of anger that may be directed towards a supervisor or co-worker. The anger may manifest itself in many ways that are the expressions of potential violence:

— Threatening behaviour
— Emotional or verbal abuse
— Bullying, harassment or mobbing
— Assault
— Suicidal behaviour
— Recklessness

OCCUPATIONAL HEALTH AND SAFETY REGULATORY FRAMEWORK IN INDIA

The Ministry of Labour and Employment (MLE) is the main authority developing worker health, safety and welfare legislation in India.

The Directorate General, Factory Advice Services and Labour Institute (DGFASLI) is an office under the MLE, and it serves as a technical arm of the ministry in formulating national policies on occupational safety and health in factories and other workplaces. It also advises factories on various problems concerning safety, health, efficiency and wellbeing of workers at workplaces. It undertakes research, for instance, in industrial safety, occupational health, industrial hygiene, industrial psychology and industrial physiology, employment injury, or pensions for dependants upon the death of workers due to employment injury.

The major legislation on OHS is the Indian Factories Act, 1948, (revised in 1987). The Act covers health, safety, welfare and other working conditions of employees in factories. The Factories Act, 1948, (revised in 1987) applies to employers with factories that employ at least ten workers if the manufacturing process is carried out with the aid of power. It also applies to those with at least 20 workers if the manufacturing process is carried out without the aid of power. The Factories Act, 1948, (revised in 1987) is quite complex and is closely based on the principles of the UK's Health and Safety at Work legislation.

> **The Constitutional aspects of Employees' right to health:**
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> Article 21 of the Indian Constitution guarantees the protection of life and personal liberty of a person. Various Supreme Court judgments have, under this "right to life" upheld the right to employees' health. For instance, in the case of Consumer Education Research Centre Vs. Union Of India, the Supreme Court has held that, "Occupational accidents and diseases remain the most appalling human tragedy of modern industry and one of its most serious forms of economic waste." Further, the judgment says, "Therefore, we hold that right to health, medical aid to protect the health and vigour to a worker while in service or post retirement is a fundamental right under Article 21, read with Articles 39(e), 41, 43, 48A and all related Articles and fundamental human rights to make the life of the workman meaningful and purposeful with dignity of person." [2]

In addition to this Act, other legislative acts also have influence on health and safety at workplaces. These are the Atomic Energy Act 1962, Insecticides Act 1968 and Rules 1971, Shops and Establishment Act and Rules and Workmen's Compensation Act, 1923, to name a few.

[2] www.legalserviceindia.com/articles/occ.htm

Legal Framework of Occupational Safety and Health (OSH)

At present, safety and health statutes regulating the OSH of people at work exist only in four sectors, namely mining, factories, ports and construction.

A number of OSH laws and regulations are applicable in a fragmented manner and the regulations have very specific objectives, covering the problems of safety and health to a limited extent.

— The Factories Act, 1948, (revised in 1987) provides for the health, safety and welfare of the workers in the manufacturing sector.

— The Shops and Commercial Establishment Act regulates the conditions of work and terms of employment of workers engaged in shops, commercial establishments, theatres, restaurants, etc.

— The Employee's Compensation Act, 1923 (previously Workmen's Compensation Act) provides for compensation to injured workmen of certain categories and, in case of fatal accidents, to their dependants if the accidents arose out of and in the course of their employment. It also provides for the payment of compensation in case of certain occupational diseases.

— The Employees' State Insurance Act, 1948 provides for sickness benefit, maternity benefit, disablement benefit and medical benefit.

Constitutional provisions form the basis of workplace safety and health laws in India. They impose a duty on the state to implement policies that promote the safety and health of workers. In addition, safety and health statutes for regulating OSH of people at work exist in different sectors, namely manufacturing, mining, ports and construction.

The regulations in place in these four sectors include the following:

— Factories Act, 1948, as amended in 1987
— Shops and Establishment Act
— Dock Workers (Safety, Health and Welfare) Act, 1986
— Building and other Construction Workers (Regulation and the Employment and Conditions of Service) Act, 1996
— Child Labour (Prohibition and Regulation) Act 1986
— Mines Act 1952, as amended in 1957
— Mines Rules 1957

Most other businesses operating in India are regulated by the Shops and Establishment Act. The main objective of this act is to regulate payment of wages,

terms of service, holidays, work conditions, hours of work, overtime work, maternity leave and benefits, rules for employment of children, description of labour, etc. Each state in India has its own rules for the Act, which may differ state to state.

Occupational Health and Safety Requirements

The Government of India, through the MLE, has issued a National Policy on Safety, Health and Environment at the Workplace, which outlines the adoption of national OSH standards. It also provides state governments with the required infrastructure to implement the standards and regulate their enforcement. These requirements and specifications help in the prevention of harm to organisations while supporting their duty of care agenda. Some examples of OHS-related regulations in India include:

Ambulance Room/Van

— Factories with 500 or more workers are required to provide an ambulance room. The ambulance room must be equipped with medical officer(s), nurse(s) and a prescribed set of medical equipment and facilities.
— Facilities carrying out hazardous processes are required to provide an ambulance van or make an arrangement with nearby hospitals. The ambulance van must be equipped with a driver cum mechanic, a person trained in first aid and the prescribed medical facilities.

First-Aid Box(es)

The number of first-aid boxes required depends on the total number of employees at the facility. Each first-aid box must be equipped with emergency first-aid supplies and each facility must have one person trained in first-aid treatment.

Medical Surveillance/Examination

Every person engaged in the handling of foodstuffs must be medically examined and a certificate showing they do not suffer from any communicable diseases must be obtained from the medical officer. These employees must also be examined regularly for routine blood examinations, routine and bacteriological

testing of faeces and urine for germs of dysentery and typhoid fever, and other examinations, including chest X-ray, which may be considered necessary by the factory medical officer.

Workers involved in hazardous processes must be examined prior to their appointment and a certificate of fitness must be obtained from the medical officer. Such employees must be medically re-examined once every six months.

An up-to-date medical examination record must also be kept for employees. For example, a record for an employee engaged in manufacturing of asbestos or its ancillary products must be kept for 40 years.

An operator and/or a person engaged in giving signals to lifting machines, such as a locomotive and crane, is required to be examined for eyesight and colour vision by an ophthalmologist prior to being appointed. Such a worker must also be re-examined once a year if he/she is under 45 years of age and once in every six months if over 45 years of age.

Occupational Health Centre (OHC)

An OHC must be provided by any facility carrying out hazardous processes. The OHC must be equipped with a medical officer(s), nurse(s) and other medical equipment. The appointment of the medical officer(s) must be communicated to the Chief Inspector of Factories within a month of their appointment. The number of medical officers, nurses and other medical facilities (a trained first-aid worker and a first-aid box and its equipment) required to be provided in the OHC depends on the total number of employees engaged at the facility. If there are less than 50 employees, one medical officer on retainer would be sufficient. However if there are more than 500 employees, an additional full-time medical officer is required.

Exposure to Occupational Hazards

— Occupational exposure limits (OELs) of specified substances must be complied with (e.g. exposure to acetaldehyde concentration over eight hours must not exceed 180 mg/m3 and 15-minute exposure must not exceed 270 mg/m3).

— Handling of asbestos and lead must be within prescribed thresholds.
— Exposure to noise must be within the permissible limit (e.g. exposure must not exceed 90 decibels over a period of exposure of eight hours).

Ionising Radiation

— A medical examination of workers exposed to ionising radiation must be carried out.
— Use of radionuclides must be within the permissible concentration level.
— Radiological officers must be appointed.
— Information on the risks associated with the handling of ionising radiations must be given to every worker.

Reporting on any Occupational Diseases, Poisoning, or Accidents that Cause Loss of Life or Disability

— Any accident that causes loss of life or disables a worker, from working for a period of 48 hours or more, must be reported to the relevant authorities (such as Chief Inspector and Police Inspector).
— Any dangerous occurrences at the facility must be reported.
— Any worker who contracts an occupational disease or poisoning must also be reported.
— Accidents related to the handling of calcium carbide, dangerous machines or explosions of fire must be reported to the authorities.

Information Disclosure

Facilities involved in the manufacturing, handling, transporting and storage of hazardous substances must provide information to workers regarding the dangers associated with working with such chemicals, and the signs and symptoms associated with harmful exposure. Prevention and precautionary measures are required to be undertaken for every worker. A copy of the information provided to every worker must be submitted to the Chief Inspector of Factories.

Material Safety Data Sheet (MSDS)

Facilities must hold an MSDS for every chemical substance that is being used on-site. A copy of such MSDS must be made available to every worker.

General Workplace Requirements

— Adequate and sufficient ventilation and lighting must be provided, especially in a workroom.
— Daily cleaning of the facility and record keeping of cleaning dates must be carried out.
— Safe drinking water must be provided to workers (this must be cold water in summer time).

Crèche Requirements

A crèche is mandatory for facilities with 50 or more employees, and factories with 30 or more female workers. At least four nursing breaks must be given to female workers with a child up to 15 months old.

[3] www.indiafilings.com/learn/shop-and-establishment-act-india/

Regulations for Young Workers

— It is prohibited to engage a young person (below 18 years) in any hazardous process.
— It is prohibited for young workers to operate dangerous machines (unless adequate training or engaged under strict supervision).
— No child (under 14 years) is allowed to be engaged in any work.

Occupational Health and Safety (OHS) Staffing

Employers are obliged to appoint special officers for OSH matters. These officers can be called either Safety Officers or Inspection Officers.

In addition, employers must appoint or adopt:

— A welfare officer if the facility has 500 or more workers;
— Qualified and experienced supervisors for the safe handling of hazardous substances;
— A safety committee;
— Safety officer(s); and
— An EHS Policy.

Shops and Establishment Act India

One of the important regulations, to which most businesses in India are subject, is the Shops and Establishment Act, enacted by every state in India. The Shops and Establishment Act is promulgated by the state and may slightly differ from state to state.[3]

The act is designed to regulate payment of wages, hours of work, leave, holidays, terms of service and other work conditions of people employed in shops and commercial establishments, banks, insurance companies, hotels, restaurants, software companies and other service industry providers. However, it does not apply to factories, which are governed under Indian Factories Act, 1948, (revised in 1987).

Aspects Regulated by Shops and Establishment Act

The Shops and Establishment Act regulates a number of aspects related to the operation of a shop or commercial establishment. Some of the key areas regulated by the Shops and Establishment Act include:

— Hours of work
— Interval for rest and meals
— Prohibition of employment of children
— Employment of young person or women
— Opening and closing hours
— Close days
— Weekly holidays
— Wages for holidays
— Time and conditions of payment of wages
— Deductions from wages
— Leave policy
— Dismissal
— Cleanliness
— Lighting and ventilation
— Precautions against fire
— Accidents
— Record keeping

Case 1 – Occupational Health and Safety Association v. Union of India and Others

In regard to the Consumer Education & Research Centre and others v. Union of India and others (1995) 3 SCC 42, the Supreme Court of India held that the right to health and medical care to protect one's health and vigour, while in service or post-retirement, is a fundamental right of a worker and to make the life of the workman meaningful and purposeful with dignity of person.

This was further highlighted in the case of Occupational Health and Safety Association v. Union of India, where the court held that the compelling necessity to work in an industry exposed to health hazards due to indigence to bread-winning for himself/ herself and his dependants should not be at the cost of health and vigour of the workman.

More specifically, in Occupational Health and Safety Association v. Union of India, (writ petition (civil) no.79 of 2005) the petitioner represented about 130 coal-fired thermal power plants (CFTPPs) in India spread over different states in the country. The court found that no proper occupational health services or guidelines for occupational safety were in place, which caused serious occupational health hazards.

The case highlighted a number of serious diseases that the workers in the thermal plants had been suffering from over a period of years. The report produced by the petitioner indicated that half of the workers had lung function abnormalities, pulmonary function test abnormalities, sensorineural hearing loss, skin diseases, asthma, and so on.

The court, in its decision, required the following:

— Comprehensive medical check-ups for all workers in all CFTPP stations by doctors appointed in consultation with the trade unions. The first medical check-up is to be completed within six months, and then to be done on a yearly basis.
— Free and comprehensive medical treatment to be provided to all workers found to be suffering from an occupational disease, ailment or accident, until cured or until death.
— Services of the workers are not to be terminated during illness and to be treated as if on duty.
— Compensation to be paid to workers suffering from any occupational disease, ailment or accident in accordance with the provisions of the Workmen's Compensation Act, 1923.

— Modern protective equipment to be provided to workers as recommended by an expert body in consultation with the trade unions.
— Strict control measures to be immediately adopted for the control of dust, heat, noise, vibration and radiation to be recommended by the National Institute of Occupational Health (NIOH) Ahmedabad, Gujarat.
  • All employees to abide by the Code of Practice on Occupational Safety and Health Audit as developed by the Bureau of Indian Standards.
  • Safe methods to be followed for the handling, collection and disposal of hazardous waste as recommended by NIOH.
  • Appointment of a committee of experts by NIOH, including trade union representatives and health and safety non-profit organisations (NGOs) to look into the issue of health and safety of workers and make recommendations.

As a result of this action, the Government of India later also published a Report of the Committee prepared by NIOH, entitled "Environment, Health and Safety Issues in Coal Fired Thermal Power Plants" of 2011.[4]

Case 2 – Firoz Alam v. State of Chhattisgarh

In 2006, the plaintiff, who was employed by Arsh Iron & Steel Private Limited, sustained burn injuries while on the job at the factory. Five days after sustaining those injuries, the plaintiff died.

Under Section 92 of the India Factories Act, 1948, (revised in 1987), it was found that the accused had not taken proper precautions in his factory. Rule 73 of the Chhattisgarh Factory Rules, 1962 states, "(1) Suitable protecting devices such as tight fitting clothes, footwear, gloves, finger guards, goggles, head gears, life-belts, scaffolding, non-skid ladders, respirators, gas masks, etc. shall be maintained and used on all such process which are likely to cause injuries to workers, if not used. (2) All personal protective appliances provided to the workers as required under any of the provisions of the act or the rules shall have certification of ISI."

The occupier of the factory shall also ensure compliance of the provisions of such information, instruction, training and supervision as are necessary to ensure the health and safety of all workers in the workplace.[5]

[4] www.casemine.com judgementin/5608fd86e4b014971114e3b0

[5] www.nsc.org.in/images/judgments/sc%20judgement%20osh%20 vs%20union%20of%20india.pdf

HEALTHY WORKPLACE CONCEPT IN INDIA

Shifting Focus on Health from Compliance-Only Towards ROI, Productivity, Risk Avoidance and Sustainability

Most MNCs are increasing their presence in India, setting up industrial, operational, transactional or research platforms, leveraging an abundant and skilled workforce.

The benefits of a Healthy Workplace Framework are obviously not restricted to India; however, given the scale of the Indian operations of most MNCs in terms of manpower (up to several hundred thousand employees in India for some), a strong business case exists to ensure that employees are hired and kept mentally and physically healthy all throughout their employment lifecycle, both from a productivity and risk management standpoint.

As per the World Health Organisation (WHO) study on healthy workplace framework model, an unhealthy and unsafe workplace is one of the major causes for business failure.[6]

While it is imperative to achieve compliance with the legislation governing various industries, it is also equally important for organisations to look beyond and attempt to start measuring the intangible and avoid the costs of inaction. A methodical and proactive approach towards employee well-being in a holistic manner is a sure way of minimising challenges related to HR, such as retention, enhancing productivity,

[6] www.who.int/occupational_health/healthy_workplace_framework.pdf

avoiding business failures and achieving good reputation.

Amongst various tools used by organisations to measure the benefits of such an approach, Return on Investment (ROI) and Value on Investment (VOI) are commonly seen in practice. More and more organisations are tending towards VOI as a tool for impact measurement and not only the traditional ROI, primarily because it is difficult to put a price on a human life.

> **The WHO definition of a Healthy Workplace in a Developing Country**
>
> A healthy workplace is one in which workers and managers collaborate to use a continual improvement process to protect and promote the health, safety and wellbeing of all workers and the sustainability of the workplace by considering the following, based on identified needs:
>
> — Health and safety concerns in the physical work environment;
> — Health, safety and wellbeing concerns in the psychosocial work environment, including organisation of work and workplace culture;
> — Personal health resources in the workplace;
> — Ways of participating in the community to improve the health of workers, their families and other members of the community.

Is Insurance Enough?

Although Indian employers pay for employee health insurance, they still bear the risk of significant productivity losses if their overall OHS framework is not fully efficient. Insurance is typically only a part of the solution but inadequate independently to enable organisations in achieving 'healthy workplaces' goal.

— Without effective health/wellness promotion programmes fully integrated in OHS, employers may face major absenteeism and presenteeism trends, impacting productivity and profitability in an indirect but significant way.
— Emergency preparedness and emergency management capacities remain key elements of resilience.

Key health challenges of the workplace in India:

— Early onset of NCDs impacting productivity
— Weak implementation of the existing legislation and multiplicity of statutory controls
— Large numbers of unrecognised/unreported occupational illnesses
— Relative shortage of trained and skilled OH professionals
— Lack of multidisciplinary specialists (industrial hygienist, ergonomist, etc.)
— Absence of authentic certified labs that monitor chemical and biological exposure
— Local health practices leading to financial inefficiencies (hospital referrals)
— Medical remoteness, even in urban locations
— Inadequate health risk mapping amongst employees
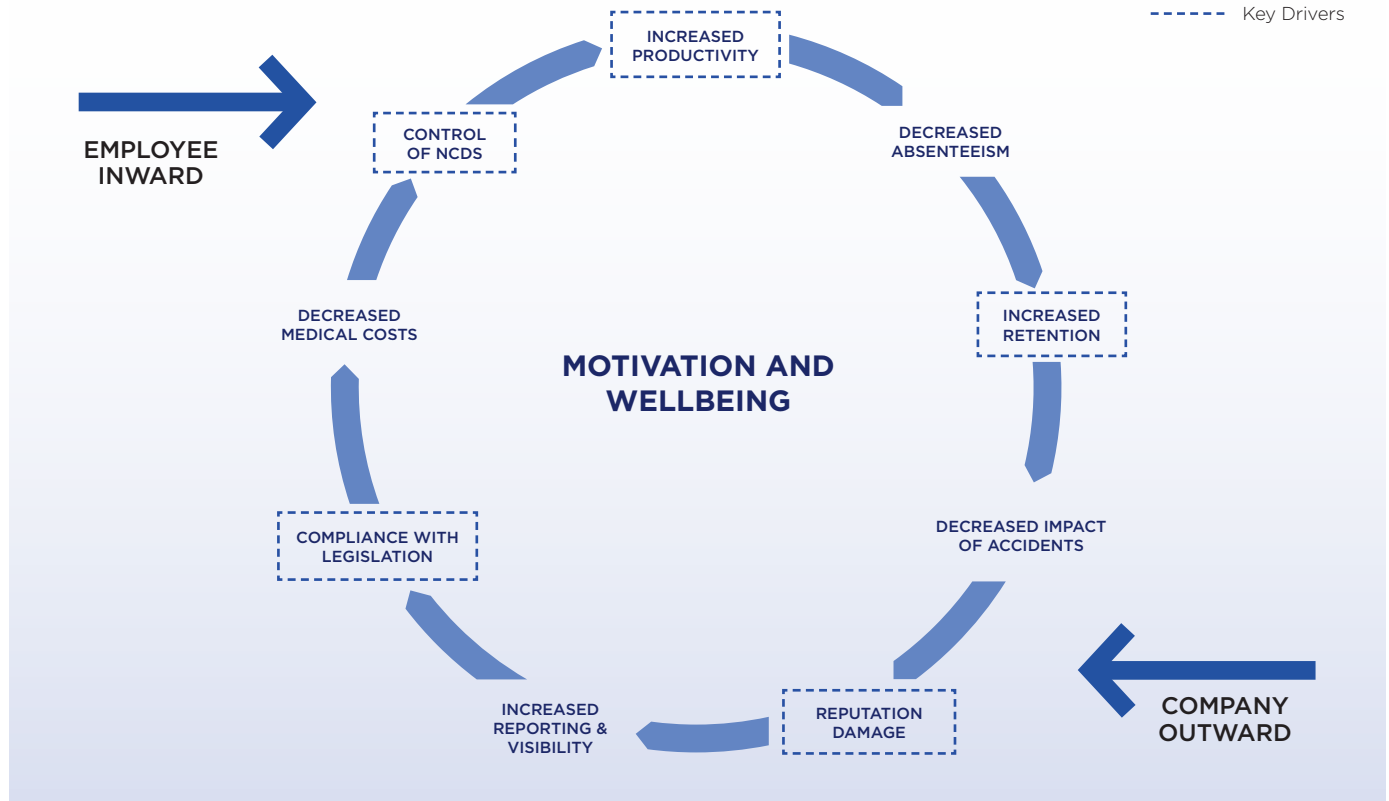

Return on Prevention

Achieving a healthy workplace through health and wellness prevention initiatives benefits both employees and employers.

As an inward benefit, the employee receives an opportunity to focus on his/her health at the convenience of workplace. As an outward benefit, the employer has a more productive workforce.

The impact on the challenges, such as employee productivity and morale, ability to retain talent, reducing absenteeism, enhancing reputation, controlling indirect costs, etc. is dependent on the maturity of the health and wellness services available at workplace.

A clear long term strategy, the associated milestones and metrics, KPI as well as ROI/VOI models are key to validate the need and sustainability of health and wellness initiatives and demonstrate the Return on Prevention for organisations. In essence, there is no efficient health and wellness in corporate environment without measurement.

Workplace Health & Wellness Benefits

------ Key Drivers

EMPLOYEE INWARD

CONTROL OF NCDS

INCREASED PRODUCTIVITY

DECREASED ABSENTEEISM

INCREASED RETENTION

DECREASED MEDICAL COSTS

MOTIVATION AND WELLBEING

COMPLIANCE WITH LEGISLATION

DECREASED IMPACT OF ACCIDENTS

INCREASED REPORTING & VISIBILITY

REPUTATION DAMAGE

COMPANY OUTWARD

The Contrasted Picture of Accessing Healthcare in India

In urban India, appropriate healthcare is largely accessible. In remote, rural parts of the country the situation is different. India has a variety of healthcare services ranging from the local general physicians to specialised tertiary care hospitals. Medicines are more easily accessible in India than in countries where prescription discipline is higher.

The government healthcare system is designed as a three-tier structure comprising of primary, secondary, and tertiary care facilities. The primary health centre and community health centres form the frontline of the government healthcare system. These are the first points of contact between a village community and a medical officer, wherein they provide curative and preventive services. District hospitals function as the second tier of public providers for the rural population. Government-run tertiary care hospitals, which are also commonly teaching institutions for medical graduate and post graduate courses, are the final layer in this system. Despite this elaborate infrastructure, severe shortages of staff and supplies in public health facilities are commonly encountered. India's urban poor population is vulnerable too, given the capacity constraints of government facilities. This capacity shortage is filled by private practitioners and hospitals.

India's private healthcare sector, despite being capable of providing good medical care and at a lower cost compared to global standards, is not well regulated. The private hospital sector has expanded rapidly, and a few government-sponsored health schemes also rely on private hospitals as a part of public–private partnerships.

Challenges Urban vs. Rural

Metro Cities

Higher density of private healthcare providers (Delhi, Mumbai, Chennai, Bangalore, Hyderabad)

Pre-hospital emergencies do not provide any upgrade of care

Major transportation challenges to manage emergencies within "golden hour"

Peripheral Cities

— Public healthcare dominates with less density of private healthcare providers (semi-urban and rural areas)
— Quality of care drops materially outside Metro cities, while the logistics required to access care are a challenge.

BEST PRACTICES FOR MITIGATING OCCUPATIONAL HEALTH AND SAFETY RISKS

Mitigating occupational health and safety risks and protecting the lives of employees is an important sustainability goal for any organisation. In order to effectively manage these risks, organisations must first ensure they have suitably trained and qualified staff in place to help manage occupational health and safety obligations.

Additionally, we have outlined a few specific considerations to have in place to ensure compliance is met

— Clearly identify which laws are applicable to your operations by conducting a regulatory compliance gap assessment or audit
— Develop clear, plain language summaries and guides on the requirement for employees (in local language and English)
— Carry out regular compliance reviews and/or assessments based on the level of risk
— Analyse and assess the local and industry-specific hazards and then implement preventative strategies and policies to manage these hazards based on the medical infrastructure for the particular project site or location
— Conduct health, security and safety training programmes to raise employee awareness
— Integrate state level government programmes into policies and procedures
— Define the required number of medical staff, qualifications and equipment on the work site
— Conduct pre-employment health assessments and annual health checks for all employees
— Conduct a workplace health assessment once per year
— Implement pandemic preparedness programmes

When complying with both local occupational health legislation and international best practises, organisations benefit from a return on prevention through avoidance of the below:

— Direct costs such as compensation, lengthy hospitalisation costs and post-incident medical costs
— Indirect costs such as salary and administrative costs, productivity losses
— Human costs impacting talent retention and attraction

Organisations should consider the following when mitigating risks for their mobile workforce in India

— Up-to-date information and advice on health and security risks and how to best address those risks through preparation and action
— Real-time tracking and communication platform to locate and communicate with your employees when necessary (such as disease outbreak, natural disasters, terrorism)
— 24/7 advice and assistance to cover any routine or crisis situation employees may face
— Assessment of medical facilities and infrastructure where your travellers and assignees work
— Digital learning tools covering health and safety while working in India
— Incident management plans/crisis management plans and testing of those plans

For organisations with short-term travellers or assignees to India, managers must be aware of specific occupational health and safety legal responsibilities that may (directly or indirectly) relate to arrival in the country. Regardless of the reason or length of the visit, it is always best practice to familiarise business travellers and international assignees with things like site entry and exit procedures; emergency evacuation procedures or drills; identification of trained first aid personnel and provisions and the responsible OHS managers on-site; and any site-specific major risks or hazards.

Organisations operating in India, especially MNCs have moral and legal obligations towards the health and safety of their workforce. Being aware of the local regulations and best practices will lead to a reduction in the number of major medical and security incidents, business disruptions and complex evacuations. Taking a proactive approach to managing occupational health challenges will mitigate risks to employees, demonstrate a commitment to Duty of Care and support sustainability goals and reporting.

ABOUT INTERNATIONAL SOS

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ABOUT ENHESA

Enhesa is the market leader in global environmental, health and safety compliance assurance providing support to businesses worldwide. We leverage our unique knowledge base utilising our in-house team of over 75 dedicated EHS regulatory analysts from more than 40 different countries to provide insights and analysis regarding EHS regulatory developments from around the world.

Enhesa provides this key regulatory intelligence for over 200 jurisdictions around the world in both an easy to understand and utilise manner.

Dr Rahul Kalia
Medical Director, India

Dr Rahul Kalia graduated with a Bachelor of Medicine and Bachelor of Surgery (MBBS) degree from Mumbai University and then pursued a Pre-Hospital Emergency Management Course from Singapore. He practised in emergency departments of hospitals in Mumbai for two years and obtained a diploma in Hospital and Healthcare Management and Diploma in Medico-Legal Systems in 2010. Dr Rahul has 15 years of diverse experience in Emergency Medical Services, Pre-Hospital Care and Corporate Healthcare.

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Sunita Paudyal is an EHS Regulatory Consultant based in Washington D.C., the United States. She has 4+ years of experience working on International and European EHS regulations. Sunita has experience in implementation of International Organisation for Standardisation (ISO), such as ISO 140001, ISO 15001 and ISO 18001 as a solution to prevent/reduce and erase impacts on environment and employees. Her key areas of expertise also include Environmental Impact Assessment, Carbon Study, and Sustainable Waste, Energy and Water Management. She holds 2 master's degrees that include Environmental Expertise and Treatment, and Sustainable Management of Energy, Waste and Water. Sunita speaks English, French, Nepali and Hindi.