
Committee on the Application of Standards

Following the decisions made during the informal tripartite consultations on the working methods of the CAS in March 2019, governments appearing on the preliminary list of individual cases have now the opportunity, if they so wish, to supply on a purely voluntary basis, written information before the opening of the session of the Conference.

Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

India

Labour Inspection Convention, 1947 (No. 81)

India (ratification: 1949). The Government has provided the following written information:

At the outset we would like to mention that India is committed to promote and achieve sustained, inclusive and sustainable economic growth, employment opportunities, equity and decent working conditions for all. Fair, randomized, effective, unbiased inspection systems coupled with tripartite consultation with our social partners are important tools for achieving our specific objective of labour welfare. Specific reply to the points raised in the report is as under:

I. Violation of Article 2, 4, and 23 of the Convention: Labour Inspection in SEZs

The Special economic zones (SEZ) in India is a geographical region which aims at export promotion and has a broad range of more specific zones like export processing zones, free trade zones, free ports etc. The SEZs have economic laws that are more liberal than a country's domestic economic laws. However, as per SEZ Act and Rules, framed there under, the Central Government shall have no authority to relax any law relating to the welfare of the labour in the SEZs. As, all labour laws are applicable in SEZs, the provisions of inspection system as provided in 20 Central Labour Acts is applicable in letter and spirit on SEZs.

Article 2 of Convention 81 stresses on presence of labour inspection system in all industrial workplaces which aims at enforcing the legal provisions provided under various labour acts through labour inspectors. In India there are 7 SEZs, the details of each SEZ in terms of no of workers and enterprise is provided in **Annexure I**. Out of the 7 SEZs, the power of labour inspection has been delegated in Noida SEZ, which covers 10 states. In Mumbai SEZ, State government has not delegated powers under Factories Act (which govern OSH regulations). In addition, no such powers are delegated (in any SEZ) in respect of laws that are administered centrally i.e. in Social Security legislations such as EPF Act and ESI Act. It is also informed that the powers have been delegated due to administrative difficulty as some SEZs have jurisdiction of more than one state for example the SEZ at Noida.

With respect to implementation of safety provisions related to Factory, the powers are still with the specialized labour inspectors. Further, even in the SEZs, where the power has been delegated to Development Commissioners, the labour inspectors from State Government have been deputed under him to carry out the functions of labour inspections. These inspectors are still drawing the salary from their respective state governments and function independently to effectively enforce the labour laws.

This indicates that, SEZs have a fully operational inspection system in place which aims at enforcement of various labour laws. For effective implementation, legally the powers of carrying out an inspection could be delegated to any government official for any particular jurisdiction and for that jurisdiction; such government official would be "the labour inspectors". Appropriate government delegates the power of inspection to the government official as per legal provisions provided in the statutes. It is the sovereign right of the appropriate government to decide who would be given the powers of labour inspection in a particular geographical region.

It is clear that the system of labour inspection is present in SEZs and is enforced by the "labour inspectors" as notified by the appropriate government in that region keeping in view all the factors and the officer designated for inspection acts in an independent manner. Therefore the inspection system in SEZ is not in contradiction to Article 2 of the Convention C 81.

The details on the number of labour inspections conducted in 7 SEZs in India during the last three years is provided in **Annexure II**. It may be seen that the number of inspections conducted have increased in 2018-19 as compared to 2017-18 in all SEZs. In this regard an Advisory dated 20.05.2019 has also been issued by the Central Government to SEZs and State Governments to carry out unannounced inspections. It may be emphasized that in Falta and Mumbai SEZ only unannounced inspections are being carried out and in other SEZs both unannounced and announced inspections are being carried out. The latest data on inspection also indicates that the number of unannounced inspection has increased in Falta SEZ, Kolkata, Vishakapatnam SEZ, Mumbai SEZ, Cochin SEZ, Noida SEZ and Kandla SEZ, in last two years.

The statistics indicating status of implementation of labour laws in 7 SEZs in India is at **Annexure III**. It is seen that though inspections are being carried out in reasonable numbers, however, the violations detected and prosecutions launched are very few in SEZs. A detailed report in this regard was sought from SEZ and after examination it was ascertained that the labour laws relating to minimum wages, payment of bonus, timely payment of wages, equal remuneration, child labour, working hours and social security are being implemented effectively and even more stringently as compared to non SEZ areas. There is a special grievance redressal mechanism in these SEZs which try to sort out any complaint received from workers in order to maintain harmonious relationship in the SEZ. In fact, being an export promotion zone which houses prominent and big units, SEZs ensure better and safe working conditions for the workers by use of latest technology.

II. Violation of Article 10 and 11 - Material Means and human resources at the Central and State Level

The appropriate government takes necessary measures from time to time to ensure that sufficient numbers of officials are available for undertaking labour inspection and they are facilitated by the government machinery to fulfil their duties and responsibilities. The details of human resources available for enforcement of labour laws and various facilities provided to them by State and Central Government may be perused at **Annexure IV** and **V**.

It may be observed that new recruitment of about 560 Inspectors have been done in 2018 and 2019. It may be seen that vehicles for inspection is provided by 10 States and in Central Sphere. Further, states that do not provide vehicle for inspection have provision of reimbursement of travelling allowance for the inspectors. It may also be seen from the data received from various state government that facilities like mobiles, laptops etc are also being provided by the respective governments to facilitate inspection process.

III. Violation of Article 12 and 17- Free initiative of labour inspectors to enter workplaces without prior notice and discretion to initiate legal proceedings without previous warning.

The process of codification of all central labour Acts into four Labour Codes in India has been initiated with the intent of simplifying, rationalizing, and amalgamating various provisions to enhance the compliance of the legislation. This would lead to universalization of minimum wages, social security, decent working conditions etc to all labour workforce in India. With these objectives the four labour codes have been drafted after exhaustive consultative process involving state government, social partners, experts and general public. A series of tripartite meetings were held at the time of drafting the Labour Codes. It is emphasized here that the labour codes have yet not been finalized and are being modified on the basis of inputs of various forums including Hon'ble Members of Parliament through Parliamentary Standing Committee. The Wage Code which was introduced in the Parliament has also lapsed and is being modified on the basis of comments received from various stakeholders. It is clear that the Labour Codes have not yet been enacted and are in dynamic state; hence, quoting any provision from such draft documents and inferring it to be violation of C81 would not be very appropriate.

The draft provisions relating to inspections in the Codes have been drafted with the objective of providing such mechanism which ultimately reduces arbitrariness, corruption, vested interests and promotes a transparent mechanism which leads to effective enforcement and compliance of labour laws. No provision of previous information before inspection has been made in the Labour Codes. The inspector is permitted to enter any place as per Section 35 (i) of the modified OSH Code. Further, the name of the Inspector in Labour Codes has been modified from "facilitator" to "inspector cum facilitator" on the basis of input from social partners. The term is further subject to modification on the basis of further deliberations. It is reiterated that the provisions of Wage Code and OSH Code are being modified from time to time on the basis of inputs received at various levels. Therefore any conclusion derived on the basis of draft provisions would be premature. It is assured that the provisions of the labour codes would be in sync with the Convention No. 81 or any other ILO convention ratified by India.

The inspections in the Central Sphere are also being assigned on random basis through ShramSuvidha Portal and the inspector does not inform prior to the inspection. To promote transparency the inspection reports have to be uploaded on the websites within 48 hrs of conducting inspections. The details of the Inspections conducted in Central Sphere and State governments for the last three years are at **Annexure VI** and **Annexure VIIa, VIIb** and **VIIc**. The details regarding violations detected, prosecution launched and penalties imposed at State and Central Sphere is at **Annexure VIII** and **Annexure IX**.

IV. Violation against Articles 4, 20 and 21: Availability of statistical information on the activities of the labour inspection services at Central and State level

Labour is in the Concurrent list and the enforcement of Labour Laws in the Central Sphere is with the Central Government and in the State Sphere is with respective State Governments.

The inspections conducted in the Central Sphere by various Central Government agencies like Central Labour Commissioner (for most of the labour legislation in Central Sphere), Director General Mines Safety (for inspection in mines), Director General of Factory Advice Service & Labour Institute (for inspection at ports) is consolidated and published in the general Annual Report of the Ministry of Labour and Employment. Last Annual Report was published in 2017-18. Annual Report of the Ministry is available online on the website of the Ministry of Labour and Employment, Government of India. Besides Employees Provident Fund Organisation and Employees State Insurance Corporation also maintains labour statistics relating to inspections conducted. The Inspection data is incorporated in the Annual Reports of the two organizations and the Annual Report is available on the website of EPFO and ESIC. With respect to State Governments, it is informed that the data regarding inspections conducted under various labour legislations is sent by state government to the Labour Bureau and the same is compiled and published in the Indian Labour Journal.

Annexure I**Details of SEZs in India**

S No	Name of SEZ	No of Workers in the SEZ	No of enterprises in the SEZ
1	Falta SEZ Kolkata	16000	42
2	Vishakapatnam SEZ	343572	652
3	Mumbai SEZ	91470	323
4	Noida SEZ	39359	258
5	Cochin SEZ	14000	99
6	Chennai SEZ	224468	59
7	kandla SEZ	53949	240

Annexure II**Details of Inspections Conducted in SEZ's in India from 2016-17 to 2019-till date**

Name of SEZ	Year	Number of unannounced labour inspection visits (without prior notice)	Number of announced labour inspection visits (with prior notice)	Total No of inspections (year wise)
Falta SEZ Kolkata	Year (2016-17)	0	0	0
	Year (2017-18)	24	0	24
	Year (2018-now)	62	0	62
	total (last 3 years)	86	0	86
Vishakapatnam SEZ				
	Year (2016-17)	16	10	26
	Year (2017-18)	10	8	18
	Year (2018-now)	20	10	30
	Total (last 3 years)	46	28	74
Mumbai SEZ				
	Year (2016-17)	46	0	46
	Year (2017-18)	35	0	35
	Year (2018-	105	0	105

	now)			
	Total (last 3 years)	186	0	186
Cochin SEZ				
	Year (2016- 17)	7	15	22
	Year (2017- 18)	10	5	15
	Year (2018- now)	15	3	18
	Total (last 3 years)	32	23	55
Noida SEZ				
	Year (2016- 17)	0	16	16
	Year (2017- 18)	0	31	31
	Year (2018- now)	20	10	30
	Total (last 3 years)	20	57	77

Kandla				
	Year (2016- 17)	237	131	368
	Year (2017- 18)	291	1058	1349
	Year (2018- 19)	786	2020	2806

	Total (last 3 years)	1314	3209	4523
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Chennai SEZ				
	Year (2016- 17)	189	0	189
	Year (2017- 18)	176	0	176
	Year (2018- 19)	175	47	222
	Total (last 3 years)	540	47	587

Annexure III**Status of enforcement of Labour laws in SEZ's in last three years**

Name of SEZ	Number of offences reported	Total number of violations detected	Number of criminal prosecutions launched	Number of penalties / convictions imposed	Amount of fine collected	Nature of offences
Falta SEZ Kolkata	41	41	25	9	18000	Health, Safety and wage related issues
Vishakapatnam SEZ	0	0	0	0	0	wage issues, trade union, strikes, discharge, dismissal, retrenchment, termination etc
Mumbai SEZ	0	0	0	0	0	Nil
Noida SEZ	11	0	0	0	0	Factory renewal, wages, fire noc submission, maintaining of registers and bonus issues etc.
Cochin SEZ	25	0	0	10	50000	wage related, women issues, overdue of payment of salaries etc
Chennai SEZ	388	30	30	16	238000	
kandla SEZ	155	147	111	23	54000	Wage, women issues, payment of salary issues.

Annexure IV

STATE WISE DATA FOR HUMAN AND MATERIAL RESOURCES FOR LABOUR INSPECTION (Status As of now)

S No	Name of State	Total Number of labour inspectors	Number of inspectors/ inspection staff recruited in the past 2 years	Number of vehicles (bikes, cars etc) provided to the labour inspectors .	Amount of TA/ DA if vehicle not there	Other facilities/ accessories provided to labour inspectors (eg- If mobile phones are given, then kindly share the quantum of such phones provided.)
1	Himanchal Pradesh	40		nil	181242 total cost incurred by dept	
2	Karnataka	333	0	121	979693 (dept total cost)	Computers, laptops, scanners , printers, stationaries, imprest amount, internet, wifi and data cards
3	Rajasthan	113	151		TA/DA is provided	nil
4	Delhi	28			TA/DA is provided	nil
5	Andaman	4		4	TA/DA Provided	
6	Haryana	158	24		TA/DA is provided	nil
7	Madhya Pradesh	260	201		TA/DA is provided	
8	Andhra Pradesh	226		19	TA/DA Provided	226 tabs along with sims and computer systems
9	Meghalaya	50				
10	Jharkhand	84	19	43	TA/DA given	
11	Uttar Pradesh	258	96		TA/DA given	
12	Odisha	183		8	TA/DA Provided	Nil
13	Bihar	382		four wheelers to all inspectors	TA/DA Provided	laptop to all inspectors
14	Tamil Nadu	168	34	49	TA/DA given	sim provided to all
15	Chattisgarh	218	33	46		
16	Uttarakhand	16	2		TA/DA is provided	
17	Gujarat	312	0	116	TA/DA provided also	nil
18	Maharashtra	134			TA/DA Provided	
19	West Bengal	571		68	TA/DA Provided	393 Phones/Tabs with internet facilities, and 178 CUG mobiles.

Annexure V**CENTRAL SPHERE DATA FOR HUMAN AND MATERIAL RESOURCES FOR LABOUR INSPECTION (Status As of now)**

S No	Name of agency	Total Number of labour inspectors	Number of inspectors/ inspection staff recruited in the past 2 years	Number of vehicles (bikes, cars etc) provided to the labour inspectors .	Amount of TA/ DA if vehicle not there	Other facilities/ accessories provided to labour inspectors (eg- If mobile phones are given, then kindly share the quantum of such phones provided.)
1	CLC(C)	287		20	TA/DA given	Telephone, internet to all inspectors
2	EPFO	3072			TA/DA given	
3	ESIC	609			TA/DA given	
4	DGMS	62			TA/DA given	
5	DGFASLI	672			TA/DA given	

Details of Inspections undertaken in the Central Sphere in the last three years-

S No	Name of agency	Number of unannounced labour inspection visits (without prior notice)	Number of announced labour inspection visits (with prior notice)	Total No of inspections (2018-NOW)
1	CLC(C)	113377	0	113377
2	DGMS	3699	0	3699
3	ESIC	67778	0	67778
4	EPFO	157978	0	157978
5	DGFASLI	179976	0	179976

Details of Inspections undertaken by States Governments in 2016-17

No	Name of State	Number of unannounced labour inspection visits (without prior notice)	Number of announced labour inspection visits (with prior notice)	Total for the year 2016-17
1	Himanchal Pradesh	31438	0	31438
2	Karnataka	7266	382	7648
3	Rajasthan	4357	0	4357
4	Delhi	4996	0	4996
5	Haryana	1421	1830	3251
6	Madhya Pradesh	3372	843	4215
7	Jharkhand	29661	0	29661
8	Uttar Pradesh	33755	376	34131
9	Bihar	-	5	5
10	Chattisgarh	-	8763	8763
11	Uttarakhand	4687	0	4687
12	Gujarat	38831	0	38831
13	Tamil Nadu	29972	534	30506

Details of Inspections undertaken by States Governments in 2017-18

S No	Name of State	Number of unannounced labour inspection visits (without prior notice)	Number of announced labour inspection visits (with prior notice)	Total Number of violations for 2017-18
1	Himanchal Pradesh	30540	0	30540
2	Karnataka	6661	351	7012
3	Rajasthan	4358	0	4358
4	Delhi	2815	0	2815
5	Haryana	377	512	889
6	Madhya Pradesh	4075	1018	5093
7	Jharkhand	51987	277	52264
8	Uttar Pradesh	24853	371	25224
9	Bihar	-	25	25
10	Chattisgarh	-	2308	2308
11	Uttarakhand	4164	0	4164
12	Gujarat	51606	938	52544
13	Tamil Nadu	22015	3436	25451

Details of Inspections undertaken by States Governments in 2018-till now

S No	Name of state	Number of unannounced labour inspection visits (without prior notice)	Number of announced labour inspection visits (with prior notice)	Total No of inspections (2018-NOW)
1	Himanchal Pradesh	65050	0	65050
2	Karnataka	13010	685	13695
3	Rajasthan	4937	Nil	4937
4	Delhi	1706	0	1706
5	Haryana	308	2223	2531
6	Madhya Pradesh	10562	2644	13206
7	Jharkhand	23505	458	23963
8	Uttar Pradesh	13076	468	13544
9	Odisha	16110 TOTAL		0
10	Bihar	-	97	97
11	Chattisgarh	-	1289	1289
12	Uttarakhand	4574	0	4574
13	Gujarat	77792	1899	79691
14	Tamil Nadu	2192	11114	13306

Annexure VIII**Details of offences , prosecutions launched and penalties imposed for the last three years in States**

S no	Name of State	Number of offences reported	Total number of violations detected	Number of criminal prosecutions launched	Number of penalties / convictions imposed	Amount of fine collected
1	Himanchal Pradesh	5899	8841	5899	4885	13235165
2	Karnataka	275992	158393	13122	10408	29728525
3	Rajasthan	572	129	129	638	117600
4	Delhi			3115		2157000
5	Andaman		1141	nil		
6	Haryana	4184	4184	6150	5251	16513696
7	Madhya Pradesh	3675	3675	3675		1539100
8	Jharkhand		20034	114	7331575	650378.6
9	Uttar Pradesh	59485	20304	20304	13970	11770000
10	Odisha	-		727 (IN 2018-19)		
11	Bihar	103	103	26	nil	nil
12	Chattisgarh	2541	2541	2541	995	53712131
13	Uttarakhand	6956	6956	57		
14	Gujarat	15666	394177	8646	14627	37014756
15	Tamil Nadu	19914	21519	6242	6339	69490600

Annexure IX

Details of offences , prosecutions launched and penalties imposed for the last three years in Central Sphere.

Year	Total number of violations detected	Number of criminal prosecutions launched	Number of penalties / convictions imposed	Amount of fine collected
CLC(C)	685280	20141	11872	19029740
DGFASLI	-	34306	25181	288101040