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WORKPLACE SAFETY IN HAZARDOUS INDUSTRIES: A COMPREHENSIVE ANALYSIS OF DIFFERENT LABOUR CODES

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ABSTRACT

In this project, we analyse the current legal structure regarding safety at work in risky economies in India after central labour laws were unified into four labour codes which became effective from November 21, 2025. We investigate the history of laws about hazardous industries starting from the Factories Act of 1948 and relevant sectoral legislation and following constitutional and theoretical developments after the Bhopal disaster, ending up with the Occupational Safety and Health Code and the Social Security Code of 2020. The analysis discusses substantial regulations these codes provide including universal ESI coverage for hazardous jobs, increased limits for safe work committees and an obligation to refuse. At the same time the analysis concerns the issues of raised bar of factory size, reduced sanctions for hazardous activities, broadened power of exemptions and uneven speed of implementing the regulations. As a result, this research shows that although the consolidation of labour laws has broadened the formal guarantee, several changes are far from consistent with the legal principles derived from court cases of *Bandhua Mukti Morcha v Union of India* and *MC Mehta v Union of India.*

I. Introduction

Historically, in India there have been industrial development faster than the system's capacity to take care of the negative effect of the development. For example, in December 1984 the Bhopal Gas[1] tragedy demonstrating the negative effect of the wrong danger management on

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[1] *Union Carbide Corporation v Union of India* (1989) 3 SCC 38.

the safety of workers and on the safety of the residents of the region took place. The tragedy was followed by the gas leak from the same company and another factory just after a year, both cases proving that the system in the industry is still weak and that changes need to be made in this sphere.

Hazardous industries are those industries which involve processes or substances which pose a potential threat of serious injury to the health of workers or of environmental contamination. Such industries occupy a particular niche in labour law since the normal calculation of the obligation of employer and the consent of employee does not cover the extent of damage that an individual mistake can result in. Industries such as mining, chemical production, oil and gas, ship-breaking, construction and thermal power generate disproportionate number of fatal and incapacitating accidents at workplace in India, even if such industries are a small share of the total registered businesses.

The field witnessed seven long decades of fragmentation, resulting in the form of a body of sector-specific legislation primarily the Factories Act of 1948, Mines Act of 1952, Dock Workers (Safety, Health and Welfare) Act of 1986, Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act of 1996, and Employees' Compensation Act of 1923 each with its own defined terms, thresholds, inspectorates and penalties for infringement. The fragmented state of affairs drew adverse comments from industry on the complexity of complying with provisions of the statutes and was equally condemned in scholarly circles for resulting in poor and uneven coverage of the workers, especially contract or informal workers, working in the worst hazardous conditions.

Giving effect to the recommendations of the Second National Commission on Labour, Parliament enacted four labour codes in September, 2020[2]. These include the Wage Code of 2019[3], the Industrial Relations Code of 2020[4], the Social Security Code of 2020[5], and the Occupational Health, Safety and Working Conditions Code of 2020[6]. Collectively, these cover twenty-nine central labour laws. The OSH Code is the main law governing the safety of workplaces in certain industries, though it works with the Social Security Code of 2020 in

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[2] Ministry of Labour, Government of India, *Report of the Second National Commission on Labour* (2002).
[3] Code on Wages 2019
[4] Industrial Relations Code 2020
[5] Code on Social Security 2020
[6] Occupational Safety, Health and Working Conditions Code 2020

regard to compensation, and within a constitutional context under Article 21 of the Constitution of India and the Directive Principles.

This paper presents a thorough examination of the legal framework for workplace safety within dangerous industries under the four labour codes and discusses the development of the same from the previously existing statutory regime. The paper explores the substantive and procedural safeguards introduced by the OSH Code and the Code on Social Security of 2020 and analyses the framework in terms of its implementation from the time the codes were implemented on November 21, 2025. The main question posed is if consolidation in labour laws has led to enhancement of protections to workers in hazardous industries or if it has weakened some features of deterrence and legislation in comparison to the previous laws.

II. Research Methodology

This project adopts a doctrinal method of legal research, supplemented by a comparative and historical analysis of the pre-2020 sectoral statutes and the consolidated labour codes. The study relies on:

Primary Sources - the text of the OSH Code, the Code on Social Security 2020, the Factories Act 1948, the Mines Act 1952, the Constitution of India, and reported judicial decisions of the Supreme Court of India alongside,

Secondary Sources - comprising parliamentary committee reports, bill summaries, peer-reviewed commentary and contemporaneous legal analysis published following the notification of the codes and the Central Rules made thereunder.

RESEARCH QUESTIONS:

The research questions guiding this project are:

(1) How has the statutory definition and regulation of hazardous industries and hazardous processes evolved from the Factories Act 1948 to the Occupational Safety, Health and Working Conditions Code 2020?

(2) What substantive obligations, worker entitlements and enforcement mechanisms does the OSH Code create specifically for establishments carrying on hazardous processes, and how do these compare with the regime they replace?

(3) How does the Code on Social Security 2020 supplement the OSH Code in providing compensation and insurance cover for workers in hazardous occupations?

(4) What gaps, ambiguities or regressions, if any, does the consolidated framework present, and what does the uneven pace of state-level rule-making suggest about the practical efficacy of the reform?

HYPOTHESIS:

The project proceeds on the working hypothesis that while consolidation into the OSH Code has widened the formal coverage of hazardous establishments most notably by extending certain protections to establishments carrying on hazardous or life-threatening occupations regardless of the number of workers employed[7] it has simultaneously diluted specific deterrent mechanisms, such as the term of imprisonment for offences relating to hazardous processes, and has left significant discretion to the 'appropriate Government' in a manner that risks uneven and delayed implementation across states.

SCOPE AND LIMITATIONS:

The study is doctrinal and normative in character; it does not draw on empirical or field data collected by the authors, and its assessment of implementation is necessarily limited by the fact that central and state rules under the codes were still being progressively notified through 2026, the period during which this project was researched. Reliance has accordingly been placed on the most recent secondary commentary available, with the caveat that the regulatory picture remains dynamic.

III. Statutory and Judicial Framework for Hazardous Industry Safety

A. The Pre-2020 Regulatory Architecture

For more than 70 years, the Factories Act 1948 has been the key legislation regulating safety, health, and welfare issues in factories. The Act defines ‘factory’ as establishment where there are more than 10 people working and any manufacturing process is carried out with the use of power or where more than 20 people work and there is manufacturing process without the help of power. There was a special Chapter 4 included in the Act which dealt with safety and other

[7]Code on Social Security 2020, s 1(5), proviso; Occupational Safety, Health and Working Conditions Code 2020, s 1(4).

issues of danger that was subjected to amendments by Factories (Amendment) Act 1987, which was brought into life after the tragedy in Bhopal. According to the 1987 amendment, all the die processes were obliged to inform their employers about any hazardous problem inside their company.

There were other dangerous industries that were regulated by their own authorities in various ways. The Directorate General of Mines Safety regularly applied the Provisions of the Mines Act 1952 related to both underground and open cast mining and the Dock Workers (Safety, Health and Welfare) Act 1986 was responsible for safety at the ports. The Building and Other Construction Workers Act was implemented in 1996 to apply to the construction industry. The Employees' Compensation Act of 1923 specified how to deal with accidents on work premises and how to pay damages for deaths and diseases resulting from there.

The disparate nature of this form of architecture has led to many criticisms. The Second National Commission on Labour in its report released in 2002 noted that the various number of laws which had different meanings for the terms such as "worker", "establishment" and "wages" creates an undue burden of compliance on employers, while enforcement machinery stayed thin and overlapping, so it was recommended that a smaller number of labour laws is created based on the subject matter approach and not the sector-wise approach. This recommendation was dormant for almost 20 years, and then it finally led to the creation of the four labour codes in 2019-2020.

B. The Occupational Safety, Health and Working Conditions Code 2020 (OSH CODE)

The OSH Code was approved by the President of India on September 28, 2020, and combines thirteen existing laws, namely: Factories Act 1948, Mines Act 1952, Dock Workers Act 1986, Building and Other Construction Workers Act 1996, Contract Labour (Regulation and Abolition) Act 1970, Inter-State Migrant Workmen Act 1979, and other sector laws related to plantations, motor transport workers, beedi and cigar workers, sales promotion employees, newspaper employees and cine workers etc. The Code reduces 622 sections from the various repealed laws to just 143 sections and reduces the requirement of registrations, licenses, returns and forms to be maintained by an establishment which is one of the objectives of 'ease of doing business' appearing right from the structure of the Code[8].

[8] AMSS Legal, 'Alert: Employment Law — The Occupational Safety, Health and Working Conditions Code 2020' (2020).

The Code keeps and develops the meaning of 'hazardous process' as any process or activity described in Schedule I related to specified sectors, where, except in cases of extra care being exercised, raw materials, intermediates, or finished products, bye-products, waste materials, or effluents would cause considerable damages to the health of involved persons or lead to pollution of the environment. Schedule I includes industries like metallurgical processes of ferrous and non-ferrous metals, foundries, pesticide production and usage, asbestos processing, fertilizer production, synthesis of rubber and hydrogenation, and processing of dangerous wastes in wording largely taken from the First Schedule of the Factories Act.

The scope of businesses has changed in two directions at once. The Code, on the one hand, increases the general threshold of 'factory' to twenty employees in case of use of power in production, and forty in case of no use of power, which is two times higher than the limit according to the Factories Act of 1948 thus removing a number of smaller businesses from the legal obligations applicable to factories, while on the other hand, the meaning of establishment has been extended to embrace any premises of any business whose operation is risky regardless of the number of staff, thus confirming that even the smallest enterprise has to comply with the provisions of the law since this aspect is not taken into consideration.

Chapter III of the Code places certain obligations on those who employ workers, and these include obligations that the workplace should be free from hazards, and that processes followed in production do not pose a risk to workers; employees are entitled to instructions and training in relation to safety issues, and also to a safe machine and working area and working process. In section 7 of the Code, employees are provided a corresponding right to receive information from their employer regarding hazards, as well as a right to refuse any work that puts them in danger of immediate harm, which right was not available under the Factories Act.

For establishments involved in hazardous operations, the Code provides for continued compliance with the disclosure and emergency preparedness requirements established by the 1987 amendment to the Factories Act. Occupiers are required to disclose information relating to hazards including health hazards to workers, the concerned Government authorities and the public, keep health and safety policies up to date, and inform the concerned Government authorities, of any accident resulting in death, any dangerous occurrence or any incapacitation of the worker for a period of more than forty-eight hours. The Code also allows the concerned Government to appoint Facilities Inspectors with power to enter, inspect records and stop work in case of imminent danger.

What makes this legislation distinctively unique is that it requires workplaces that have 500 employees or more to create safety committees that consist of an equal number of employees and employers. However, the threshold for hazardous facilities is lower; in these facilities, the minimum number of employees required is reduced to 250. The same applies to construction sites where 250 people or more are working. The same applies to mines that employ over 100 employees[9]. The need of having separate higher thresholds is clear in that specific stakeholders understand that worker participation in workplace safety affairs is most important where there are more possible hazards.

The legislation has also made some changes to the existing rules regarding welfare and working hours. Specifically, the working hours should not exceed eight hours a day with any extra hours paid at twice the usual rate, which is contingent on workers' approval. The Code even allows women to work night shifts between 7 P.M. and 6 A.M. if employers meet the requirement stated above. In addition, employers have been mandated to conduct yearly health assessments of their employees working in hazardous facilities and adhere to state-specific exposure limits for hazardous substances.

In terms of enforcement, the Code simplifies the penalty framework into fewer categories of offences. Violation of provisions related to hazardous processes resulting in death or severe injury may lead to imprisonment for up to two years or a fine of up to Rs. five lakh, or both, with more severe punishment for repeated offences; this is a significant decrease in custodial time compared to the longer sentences provided for offences of hazardous processes under the Factories Act, even as penalties have been significantly raised[10]. This trade-off between higher fines and lower jail time has been a point of debate as we shall see in Part IV.

The Code also gives the appropriate government extensive powers to exempt any new establishment or class of establishments from any or all provisions of the Code for a specified period of time for creating economic activity and employment. This power is much wider than found in the Factories Act where exemptions could be granted only in case of public emergency and for a maximum duration of three months. While this exemption power is examined further in the succeeding paragraphs, the exemptions stand in stark contrast to the protective framework of the Code for hazardous establishments.

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[9] India Briefing, 'Key Features of the OSH Code, 2020: India's HR Laws' (December 2025).

[10] PRS Legislative Research, 'The Occupational Safety, Health and Working Conditions Code, 2020' (Bill Summary, 2020)

C. The Code on Social Security 2020

The Code on Social Security, 2020 supplements the OSH Code in so many instances of compensation and insurance, including the Employees' Compensation Act, 1923 and Employees' State Insurance Act, 1948. Chapter VII maintains the provision of the Employees' Compensation, where an employer has a liability to compensate the worker in the event of personal injury caused by an accident or by occupational diseases listed in the Third Schedule, and commuting accidents are treated as occurring while the worker is at work. When a worker develops a disease included in a group of diseases that are specific to a given occupation after six months of service in this company, this disease is treated as an injury by accident.

The Code's most important innovation with respect to hazardous industries is found in Chapter IV. This chapter deals with the Employees' State Insurance Scheme. Generally, the ESI Scheme is applicable to employees who work in establishments with a minimum of 10 employees. However, the Code eliminates the numerical requirement for establishments involved in hazardous occupations, which means that the ESI Scheme is made mandatory even if they have only one employee working in a hazardous occupation. Hereby, a significant gap in history gets filled since small hazardous units, such as chemical processing companies or units involved in the processing of asbestos with less than 10 employees, would not have come under the ambit of obligatory social insurance coverage.

D. Implementation Timeline and State-Level Rule-Making

In the years 2019-2020, the four labor codes got the approval of the President, but they did not take effect immediately since the rules made by the Central and State Governments were mandatory before they fully came into operation. They only went into operation on November 21, 2025, when the Central Government made all four codes applicable and published the Occupational Safety, Health and Working Conditions (Central) Rules, 2026 on May 8, 2026, which laid down in detail how these provisions related to registration and licensing are to be implemented, like registering online at the Shram Suvidha Portal, making a single Form-I application, and registration by default if registration is not granted within seven days[11].

Implementation of relevant regulations has been quite disparate across the states. Some states already published either drafts or final versions of the OSHWC rules back in 2021, and by

[11] SCC OnLine Blog, 'OSH Central Rules 2026: Key Highlights and Compliance Guide' (13 May 2026).

April of 2026 all states other than West Bengal had published some version of the rules. Accordingly, for more than five years now, the actual substance of the workers' rights and entitlements under the Code is different from state to state. Moreover, during this entire period of transition, the formerly existing sectoral laws have continued to operate in those states that still have not adopted applicable rules under the new Code, thereby creating a hybrid regulatory environment full of challenges both for the compliance by the employers and for the exercising of workers' rights.

E. The Judicial Backdrop: Constitutional and Common-Law Foundations

The statutory framework for hazardous industries did not arise in isolation from constitutional pronouncements. In *Bandhua Mukti Morcha v Union of India*[12], the Supreme Court considerably enlarged the scope of Article 32 and permitted epistolary jurisdiction. While delivering this judgment, the Court held that the right to live with dignity is protected under Article 21 of the Constitution, thereby requiring the State to implement the welfare and safety laws pertaining to stone quarries. The judgment has laid down the methodology of public interest litigation by letter and continuous mandamus by the Court, which ultimately would dictate the future disputes pertaining to hazardous industries.

After the Bhopal incident and the oleum gas leak by Shriram, the Supreme Court in the case of *MC Mehta v. Union of India*[13] followed a different approach from the principle applied in English law in the case of Rylands v. Fletcher and introduced the principle of absolute liability, as per which an undertaking engaged in a dangerous or hazardous activity owes an inalienable duty to the public in general, and is held liable to pay compensation to them without exception for the diligence exercised by it. Although the case arose in tort and constitutional law and not under labour law, its reasoning has been used in the provisions of the Code[14].

The persistence of this legal principle was shown through the styrene gas leak that occurred at the LG Polymers facility in Visakhapatnam in May 2020[15], which led to multiple fatalities and injuries at the facility and enabled the National Green Tribunal to impose the principle of strict

[12] *Bandhua Mukti Morcha v Union of India AIR 1984 SC 802*

[13] *MC Mehta v Union of India AIR 1987 SC 1086*

[14] Upendra Baxi, *Inconvenient Forum and Convenient Catastrophe: The Bhopal Case* (N M Tripathi 1986)

[15] *In Re: Gas Leak at LG Polymers Chemical Plant in RR Venkatapuram Village, Andhra Pradesh, NGT Order dated 8 May 2020*

liability and order for compensation as an interim measure at a time when the OSH Code had been formally approved but not yet enacted. The instance was a stark reminder of the discrepancy between laws in the books and their implementation on the ground.

IV. Evaluating the Labour Codes: Gains, Gaps, and Federal Fault Lines

A. Strengths of the Consolidated Framework

The consolidation of the whole body of knowledge that is covered by the OSH Code is valuable from a regulatory perspective. By replacing thirteen overlapping statutes by a very simple code, it reduces definitional inconsistencies the same definition of ‘worker’, ‘employer’, and ‘establishment’ now operates in relation to regulation in formerly differently regulated spheres of activity. The change from six registrations to one, from four licenses to one, from twenty-one returns to a single return definitely simplifies the process, which is likely to increase the scope of compliance on the part of small businesses that used to find compliance very burdensome and, therefore, required to operate illegally and without any supervision[16].

The delivery of obligatory coverage under the ESI Scheme to sectors operating in hazardous or life-risking occupations, with or without a specified number of employees, stands out as a major advance in the 2020 framework. The target group consists of small-sized chemical, foundry, and processing companies that have not been properly safeguarded by the Employees' Compensation Act's ex-post litigation and compensation system until recently. The new provision changes the situation radically by replacing this system with that of the ESI Scheme and its guarantees of healthcare services and monetary benefits.

The lower requirement for the mandatory establishment of Safety Committees in plants, construction sites, and mining activities as well as the newly established right to refuse unsafe work are the indications of the fact that some progress has been made toward participatory safety governance, although within quite modest limits.

B. Weaknesses and Points of Concern

The increase in the number of employees in the factory from 20 to 40 seems difficult to support when it comes to the protection of workers because the rule succeeds in its goal of conducting business. Many of the most dangerous small-scale businesses in India, namely, foundries,

[16] Gaurav Datt and others, ‘India’s New Labour Reforms: Occupational Safety, Health and Working Conditions Code’ (Ideas for India, May 2026).

electroplating factories, and chemical blending plants, employ below 20 workers. Thus, such enterprises can have all their activity considered under the term establishment in case the dangerous activities have been discovered under the definition of the establishment but do not fall under the obligations of the factory beforehand. Hence, these workers' protection depends on the notion of the hazardous activity that will be defined by relevant bodies, and these organizations have not provided sufficient clarification of their definitions.

The lowering of the upper limit of jail time for violations associated with dangerous processes poses more difficult concerns. While the increase of monetary fines may be helpful to deter businesses with a lot of money, passing a law that reduces jail time for violations that can lead to casualties which is exactly what Bhopal amendments of Factories Act was meant to prevent sends an unclear message about how serious criminal violations are treated especially regarding corporate managers, for whom the threat of imprisonment was introduced.

Under section 141[17] of the Code, the Government possesses an extensive exemption power, which allows them to free new industries from one or more provisions in terms of conducting business and making use of labor, and does so without being constrained by emergency-like scenarios and three-month limitation placed in the similar power under the Factories Act, whereas it poses serious challenges to the main goal of the Code to protect everyone. Based on the way such power is to be applied in respect to newly launched facility that carries out dangerous operations, the power in question can be realized in such a way that it would effectively halt implementation of all rules and norms in regard to such matters as disclosure, safety committee and inspection all of which were developed with regard to the Bhopal reforms, leaving one to ask whether the exemption power indeed matches the expectations provided in the Bandhua Mukti Morcha and MC Mehta cases.

The extended and inconsistent timeline of the implementation, which saw the codes approved in 2020 but put into effect only in November 2025 and the Central Rules for the OSH code released as late as May 2026, leaves one major state yet to put out its own rules by April 2026. As a result, what people have seen up to now is not improvements in protections outlined in Part III, but rather the laws existing on paper even while older sector laws have continued to apply as relevant ones. Hence, we see an illustration of a particular weakness of the cooperative-federalism approach in labour regulation in India since the creation of the relevant

[17] SCC OnLine Blog, 'Deconstructing the Occupational Safety, Health and Working Conditions Code, 2020' (25 October 2020).

rules requires acts of the federal state (according to the Concurrent List) which entails that the pace of labour regulation reforms in hazardous industries completely relies on what the federal states in which the industries operate are capable and willing to do.

C. Arrangement: Interaction Between the Codes

To have a full understanding of the provisions of the OSH Code and the Code on Social Security 2020, it is important to read the two together. When doing so, it becomes clear that the OSH Code plays a role in the legislation concerning preventive and regulatory aspects of safety-related laws as it has definitions on hazardous processes, some obligations in terms of disclosure, safety committees, inspections and penalties related to safety. The Code on Social Security is responsible for the compensatory aspect of safety as it contains the provisions on the compensation of employees and the ESI Scheme. The Industrial Relations Code 2020 cannot be called crucial with regard to safety but its provisions indirectly relate to safety because they define circumstances when people are allowed to stop working in relation to some issues connected with safety, as well as the role of the Grievance Redressal Committees in raising issues before they become critical[18].

V. Conclusion and Evaluation

India's reform of labour laws to merge into four codes and the Occupational Safety, Health and Working Conditions Code 2020 introduced together with the Code on Social Security 2020, signifies major restructuring of a law related to workplace safety in dangerous sectors since Bhopal-related changes made to the Factories Act in 1987. The reform allows to reach a greater safety coverage as it has made ESI available for dangerous professions no matter the size of establishment as well as increased the number of workplaces requiring safety committees and given new rights not to accept dangerous work to workers.

Simultaneously, the evaluation in Part IV indicates that this amendment does not necessarily mean progress for worker safety. The increased threshold of factory size, the limited responsibility in case of violations regarding hazardous work, and the extended, mostly unconditional prerogative to exempt by the right governmental authorities are all signs of the shift in favour of easier business implementation, which is contradictory to the constitutional basis (Article 21 as mentioned in the *Bandhua Mukti Morcha case v Union of India* and the

[18] OP Malhotra, *The Law of Industrial Disputes* (7th edn, LexisNexis 2015).

principle of absolute liability as explained in *MC Mehta v Union of India*) upon which the unsafe work regulation in India has been built historically.

Furthermore, the implementation of the aforementioned protective measures has taken various amounts of time depending on location and the particular conditions taking place there.

Consequently, based on the results of this research, it is possible to make the following recommendations:

1. The Central Government should quickly and widely release the list of "hazardous or life-threatening occupations," which is essential for implementing the definitions of the OSH Code and the ESI provisions of the Code on Social Security, so that the exemption of small units from coverage under the raised threshold is not effectively increased by the exemption from hazardous activity coverage.

2. Parliament or the appropriate government should review the lesser imprisonment period for crimes concerning hazardous processes which lead to death or serious injury; the sentence should be reviewed and based on the gravity of risks that mass casualties create, following the principles of the amendment to the Factories Act from 1987.

3. Section 141 of the OSH Code should, at the very least, be restricted in terms of exemptions to establishments that are carrying hazardous processes, due to the increased stakes involved.

4. It is important that the states that have not yet issued rules under the OSH Code, West Bengal being the most notable example at the time of this research, be encouraged, including with the help of coordinating mechanisms from the central government so that the efforts of maintaining the uniformity of the consolidation process are not undermined by continuing variations of jurisprudence.

5. Considering that the Central Rules outlined in the OSH Code are published only in May 2026, a thorough review of the legislation which preferable will be carried out by the Ministry of Labour together with State Labour Departments, the Directorate General of Mines Safety and representatives of workers should take place within two or three years after full publication with the purpose of evaluating whether the Safety Committee and the reporting requirements work properly in reality, not only in theory.

Safety at workplaces in risky sectors is placed in the intersection of labour legislation, Constitutional rights and industrial policy, and all four labour codes are the most ambitious attempt of the Parliament to tie these spheres together in one document. Whether this attempt works for the benefit of the protection policies introduced after Bhopal or brings about subordination of these policies to the need for easier doing business will depend not so much on the text of the Code itself as on the diligence and political will of all parties involved in implementing, checking and enforcing the legislation in each of the States where a hazardous industry runs currently operates.

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