

**Course Name: Labour Welfare and Industrial Relations**

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**Week – 08**

**Lecture – 01**

Hello students, Namaskar. Welcome to the 8th module of our course on Labor Welfare and Industrial Relations. In this module, typically we look into a pertinent issue which has been creating problems for our country for long time and still it is unfortunately a big problem. So, the issue is child labour. We will specifically look into Child Labour Protection and Regulation Act of 1986 and workers education.

So, we will look specifically in lecture 1 on the objectives. I'm Dr. Abraham Cyril Issac. I'm an assistant professor at the School of Business, Indian Institute of Technology, Guwahati. So let's start with today's theme. Today's theme is on child.

Child is meant to learn, not to earn. So this should be the theme when we try to understand this law, the logic behind the law, the objective behind the law, the problems that led to bringing out such a law and what are still the objectives at large that we have to achieve from the law. So Child Labour Prohibition and Regulation Act 1986. Let's start with this quote from Martin Scorsese. Luther King Jr.

Child labor is a burden on society that we must collectively shoulder and eliminate for a better future. There is no doubt students or the children who are the future of the nation, if they are not directed towards education, they are not directed towards productive output and they are put in initial Toil or initial labor work, then the country itself is going to perish. So this has been a serious issue for a country for long and still it is an issue. And we are looking into the objectives of this particular law, how it can or how it is trying to eradicate child labor.

Now let's understand child labor. Before we venture into the nitty gritty and nuances of this particular law, let's understand what is child labor. Child labor is often defined as work that deprives children of their childhood. Now every single child or every child has a certain dreams, has certain rights, right for a good livelihood, right for a good childhood. he or she has that particular right and when we are talking about child labor that right is being taken away from him or her this is unfortunately the biggest challenge the country is facing so the potential and the dignity and that is harmful to physical and mental development of the child I repeat when you're looking into a child or when you're taking away the childhood from a child and you're taking away the potential dignity

That is creating problems not only short term but on a long term perspective in the mind of the child as well as the physical and mental development of the child. So this. uh problem or this issue is what he or she is born with and he or she has to go through every now and then and this is the unfortunate aspect when it comes to the productivity of the output of the country it seriously affects the development of the nation so let's break it down what child labor is when we look into child labor it is mentally physically socially or morally dangerous So there are all walks of life that pitch into here. When you are analyzing critically what child labor is, it is mentally, physically, socially, and morally dangerous and harmful to children.

So the opportunity to attend the school, this is what is being deprived. When they see other counterparts or other children of the same age going to let's say educational institutions schools they feel they understand that there is a lacunae there is a problem with themselves and that is the root cause of all the crimes that may happen in a later stage so the opportunity the basic opportunity the right to education which we stress now is being deprived in this particular scenario. So obliging them to prematurely leave the schools or sometimes even not see the school and finally requiring them to attempt to combine school attendance with excessively long and heavy work.

So those who are lucky The lucky ones who would some other way try to get into a school, maybe with their own hard work because of their own interest to study. They might also feel that it is really hard to cope with both the work as well as the requirements of the school. Because if you look into a child's particular development over

the years, apart from the child rearing practices, what the child faces is the school and its environment. surroundings based on let's say all the stakeholders his or her friends teachers etc so there is a demand a social demand an academic demand a mental demand a physical demand that is being created when your energy is already into something

like a physical work or like some work which is generating some money for them or the family, then it ultimately gives them less opportunity or less of energy. It leaves them with less of energy to focus on their studies. And unfortunately, in the long run, they are forced to drop out. If you see the previous slide, The things are changing right now, fortunately.

But if you see the previous decades, what has specifically happened is that though they tried to start the education, at some point they realize that this is not a tenable model. This is not going to be possible. I cannot, I am not competent enough to carry out both my education as well as the long, troublesome labor work. So this is where child education gets a hit. Child education gets hampered.

So let's understand specific to the Indian scenario. What are the concerns and issues regarding child labor? So when we look into the first and the foremost thing, it is nothing but exploitation. When you are getting workforce who are. minor specifically and most importantly they cannot raise voice.

Their voice is subtle. In one of the previous NPTEL courses we have talked about employee voice and all these arguments related to employee voice will emerge only once there is a level playing field. You are bringing a workforce which is akin to that like small children They have their own restriction. Their voice is very feeble.

The employee voice they don't have any that would be the ideal way to put it. They are working more hours for less payment. So there is an inherent element of exploitation that comes into picture. The employer sees this as an opportunity that there is nobody to talk on behalf of that particular child. And he or she tries to exploit this opportunity.

And the children in themselves are also not matured enough. to demand certain things, to exert their rights. Had it been the case, then they would not have ended up here. So all

these situations combine together and create an environment of exploitation. And that is what has happened, unfortunately.

The education is getting suffered because of this. The children who are really interested in learning, are not able to go to school because of the requirement that they have to work and give some money to the family the health and safety is affected because when you look into this exploitation this exploitation is not only with respect to the monetary aspect it is also with respect to the workplace conditions for example When you are more experienced or let's say a senior laborer, senior worker may object to work in a dangerous place, a dangerous work environment, or he or she might be concerned with the occupational hazards associated with a particular work. But unfortunately, the child who is coming forward because of the necessities, the problems he is facing within his family to generate money.

So he is coming and he is ready to do any kind of job anywhere in the world, anywhere in the universe, in any work context. So that creates again an opportunity for the employer to exploit him. But that creates or initiates a serious concern towards the health and safety of the particular child. When you are talking about child labor, one thing seldom goes unaddressed and that is child. The payment part, the wages are too less or negligible because the same reason nobody is going to raise voice for them.

Nobody is going to raise any right issue or any problems for them. So this is the situation whereby they will slowly grapple into poverty or they will slowly trickle down to poverty because the lion's share of the amount they are earning they might be forced or they should or they might be giving it to the family. The rest of the amount is very less. So ultimately they are pushed towards poverty. Another aspect is bonded labor because of they are not being aware of the rights about their rights and responsibilities.

The problem of bonded labor will directly come to children when they are engaged in labor. So this is another display or manifestation of the ignorance and the potential exploitation the employer is taking or doing in case of that manifestation. The next point would be human rights violations, no doubt, because every single child in this universe

has the right to get proper education, the right to learn. This is a fundamental right. And if you are making that child.

not to give or not giving the right to education, rather you are exploiting him in a dangerous workplace, in a place where there are a lot of potential occupational hazards, you are creating troubles to the health and safety of the particular child, you are pushing that individual towards poverty, you are pushing that individual towards bonded labour, then there is certainly human rights violation. It is also bringing out a problem of social stigma because look into those kids, unfortunately, who are engaged in work. So if you are going out with your family, you might have your own kids and you feel that, you know, engaging with them or maybe talking to them might be a certain, you know, inconvenience. So unfortunately, this stigmatization, this enabling or this manifesting as a social stigma is an unfortunate incident. Now, when you are looking into the global supply chains, most of the global supply chain.

works on the peripheral issue of manufacturing cost and manufacturing cost becomes heavily low or less when you are employing less labor cost and for less labor cost there is only one alternative which is child labor unfortunately. Now this is unfortunately the problem that the child labor is encountering in any region for that matter. So we need to have proper legislation and enforcement. But do we have let's say we are discussing we are going to discuss on the provisions and on the on the different aspects of the law and the objectives the law would be looking at at a larger context. But

That said, we need to have this legislation and enforcement rightly in place so that such issues such problems are mitigated. And finally, we are able to produce or give proper rehabilitation and social support for the individuals that are already involved in incidents or activities like child labor. So let's look into the origin that what our constitutional fathers or people who had drafted the Indian Constitution had in mind. So that has been put down in specifically in the fundamental rights and especially the directive principles of state policy. So technically, if you look into the fundamental rights, Article 21A, the state shall provide.

The state shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the state may by law determine. So this is an exclusive provision that enables the children in the age group of 6 to 14 to achieve or to attain education. Now this is a precursor or this is a classic scenario to put kids away from the bondages or from the possibilities of child labour. So such pre-active, such pragmatic laws and provisions would in fact

Has to be enforced on such pragmatic provisions has to be enforced without any exception. Then we'll see or we'll look at considerable decrease in the rate of child employment or child labor. Article 24 specifically states that no child below the age of 14 years shall be employed to work in any factory or mine or engage in any other hazardous employment. So this is what I wanted to underline here.

When you are talking about child labor, there is always a possibility of those kids being pushed towards hazardous workplaces. workplaces where there are dangerous working conditions because others might refrain from going there. So this will naturally open up a scenario where the children are more pushed towards such hazardous employment areas or employment activities. So that ultimately leads to exploitation. When you come to the directive principles of the state policy, Article 39, Clause E states that the state should direct its policies towards

towards securing that the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength. If we look into the cases of child labour, Specifically, the problems emerge because of the exploitation that happens in the initial age. Let's say there are two, three, four, five children within a family. So it is imminent that elder ones have to take care of the family because it is slightly difficult.

From the financial point or economic standpoint to actually feed the entire family by a single father or one particular person. So it naturally forces the kids in the home to start working and more the senior you are, more the probability that you have to work. So this actually creates a round of exploitation and it keeps on going as a vicious cycle. cycle so unfortunately this has been happening in our country and this is the unfortunate scenario

where people are not able to come out of the vicious cycle now let's specifically look into the provisions that are given in the child labor before the child labor act of 1986 Because 1986 was the watershed moment where we actually got the Child Labor Act.

But what were the provisions that were mainly involved or available in and around child labor? That would be interesting to us. When we look into these aspects, one would be the Factories Act of 1948. Because in some of the modules we are going in detail about these acts, I will not be concentrating in these acts right now. Our focus would be mainly undividedly on the Child Labour Act.

But we have to understand and acknowledge that there were some provisions in some previous acts regarding the child labour or regarding the issue of child labour. The second one was the Mines Act in 1952. The third one was the Employment of Children Act 1938. The Juvenile Justice Care and Protection Act of 1986 and the Bonded Labor System Abolition Act 1976. So these were some of the provisions that were available before the enactment of the Child Labor Act of 1986.

So it is always. Good. If you are a student of law, if you want to be a practitioner in the child rights activities, or let's say you are part of a legal system or you are part of an organization which is empathetically bonded towards abolition of child labor, then you should it should be ideal that you should know these provisions that existed before the coming of Child Labor Act 1986. Now, there was also a very critical Gurupal Swami committee, 1979. Let's look into what were the provisions and aspects of salient features that came out as part of that committee's decision.

Based on the first committee to study the issue of child labour and to suggest measures to tackle it, the committee observed that as long as poverty continued, I repeat, as long as poverty continued, it would be difficult to totally eliminate child labour. The Guru Patswami Committee in 1979 recommended to ban child labour in hazardous area to regulate and improve the conditions of work in other areas. The recommendations of the Guru Patswami Committee, the Child Labour Prohibition and Regulation Act was enacted in 1986. So you can see that such a committee had in fact envisioned and tried to trigger and on basis of that the child labor prohibition and regulation bill came in 1986 so

let's quickly look into the objectives of this particular child labor bill that came in 1986 and later was enacted as the act the first one was ban the employment of children

That is those who have not completed their 14th year in specified occupations and processes. So when you are looking into, when you are trying to define children, we are essentially looking into the age till 14, at least where they cannot be employed in specified occupations and processes. Lay down a procedure to decide modifications to the schedule of banned occupations or process. Also regulate the conditions of work of children in employments where they are not prohibited from working. So there are some some situations where, you know, it happens that the employers try to manipulate that.

There are some areas which are not hazardous and the child or the particular labor force can be involved. enrolled and enforced to work there but still the law or the bill in its initial form suggested a regulation in those conditions where the work of children happens even if they are not specifically prohibited from working and the particular bill also had objective to lay down enhanced penalties enhanced penalties for employment of children in violation of the provisions of this act and other acts which forbid the employment of children and finally to obtain uniformity in the definition of child in the related law so we have a set of laws which unfortunately define the child in different sense so this was an initial trust given whereby there was some standardization that was Thank you. supposed to be brought into the legal lexicon.

Let's say child, if it is child, then it has to be coming under the age bracket of 14. Something like this, a standardized understanding of different provisions, definitions and terminologies, that was a specific attachment or that was a specific aspect that the bill focused on. Now the Child Labor Prohibition and Regulation Act as such, finally when it came in, The act was passed on 23 December 1986. So it came on the statute book as the Child Labour Prohibition and Regulation Act 1986 as I have already communicated.

It enacted with a view to protect the interest of children and prevent exploitation. As I've already emphasized, exploitation is something which is repeatedly creating problem when it comes to child labor. I'm not discounting the problem creator, the barrier against right to education, but more than that, when the workforce in itself is not able to raise



their voice about not able to talk for themselves as the community, as a union, then exploitation starts. There is no doubt about it.

There is no denying fact about it. So it focused on the rehabilitation of children working in Hazara's occupation. It envisioned strict enforcement of Indian laws. child labor combined with development programs to address the root cause of child labor so this was the interesting part because not only a monitoring not only a regulation mechanism but also the law envisioned that by bringing out a law it is not the end We have not understood or we are not attacking the root cause.

The root cause is poverty. The root cause is unfortunately the economic condition. The root cause is that they cannot feed the family. The root cause is that they don't have money for the education. The root cause is that their parents are unable, uneducated.

They are not able to support the family. So all these aspects were critically analyzed and considered. So when you are bringing out an act, it is not only pertaining to having some cosmetic changes within the child, let's say some definition part or some understanding of the provisions, but more than that. there was some serious brainstorming that happened to understand the root cause of the particular issue. Moreover, every child now has a right to proper education, as you know, as part of the Right to Education, RTE, and Social Security.

The Act extends to the entire country and applies to children who have not completed 14 years of age. So when the Child Labour Prohibition and Regulation Act 1986 came, came in its entirety, came in its real form into the statute book. These were the salient features associated with a particular act. Let's quickly look into some of the critical definitions under the act.

There are certain definitions that has to be standardized across the act. So that is what we'll try to narrate here. The first one is appropriate government. Appropriate government in its entirety means that In relation to an establishment under the control of the central government or a railway administration or a major port or a mine or oil field, the central government and in all other cases, the state government.

So when it concerns with the aspects that is under the central list, Like railway administration or a port or a mine or oil field, the appropriate government means the central government. And in all other cases, all other established aspects or features or aspects, it goes with the state government. The second important definition and in fact the most critical one would be that of the child. Child in the act means a person who has not completed his 14th year of age as I have already communicated.

Day means a period of 24 hours beginning at midnight. Establishment includes a shop, it could be a commercial establishment, it could be a workshop, it could be a farm, a residential hotel, restaurant, eating house. theatre or other places of public amusement or entertainment. And family in relation to an occupier means the individual, the wife or husband, as the case may be, or such individual and their children, brother or sister of such individual. So there are

Certain definitions that need to be checked need to be understood when you are looking into the law. Occupier in relation to an establishment or workshop means the person who has the ultimate control over the affairs of the establishment. The ultimate control. Port authority means any authority administering a port. Prescribed means prescribed by rules made under section 18 and weak rules.

Is a time period which means a period of 7 days beginning at the midnight on Saturday night. Or such other night as may be approved in writing for a particular area by the inspector. But unless and until such a writing is approved and communicated it would be the midnight on the Saturday night the beginning of the week. Now, also there's a definition for workshop. It means any premises, including the presence thereof, wherein any industrial process is carried on, but does not, but does not include any premises to which the provisions of 67 of the Factories Act 1948 is concerned.

So, that is the subtle difference between workshop and factory. When you're looking into objectives of the Child Labour Protection and Prohibition Act 1986, These are some of the most critical objectives of the Child Labour Act. When you are giving in the act, it should serve some purpose or it should have some vision. In case of an organization, it could be vision.

It could have certain goals, objectives. And when you are coming up with a law like Child Labour Protection and Prohibition Act, the objectives are one. The first and the foremost prohibition of child labor, because that is the sole purpose. That is the the core fundamental block on which the entire law has come up. Regulation of conditions for work children, because it is difficult aspect or difficult activity to change the entire scenario within the country overnight.

So it will take some time. critically there is no doubt undoubtedly the sole motto behind the act is prohibition of child labor but that said in the present scenario how can the act merge in or converge is through regulations of conditions of work and that would be the best thing to start with because we we see On a day-to-day basis, children employed in different workplaces. So how we are able to monitor, how we are able to regulate, there are specific provisions associated with that in this particular law. Determination of hazardous occupations and processes.

Because we have to classify different occupations on basis of the level of the difficulty or level of problems or hazardous conditions that the organization or that the job is actually demanding. There are certain provisions for adolescents because you cannot just think somebody who is 8 years of age and somebody who is 14 or 16 in similar basket because their mental physical development also are different so there are specific provisions for adolescence there are penalties specified in the law for violation there are enforcement and inspection aspects that are being narrated in the in the law there are promotion of education and rehabilitation activities because We are looking into a corrective setup.

We are not here to blame game. We are not here to understand the root cause only, but we are also trying to go one step ahead. The people, the children who are affected, there should be a sufficient rehabilitation. They have to be brought back to the life. A life with dignity, a life with education, a life with proper societal status and standard.

This has to happen only with the existence of a clear rehabilitation plan and the law speaks about that too. There is a national policy on child labor which is also an objective of the particular act. So we conclude the first lecture of module 8. We tried to address an

important, a very serious issue the country is facing till date. Unfortunately, a lot of other provisions that were there, but could not, to a certain extent, address the real problem.

As I mentioned, the problem is exploitation. When you look into the Child Labor Act. The problem here is, though there is, again I'm stating, I'm not discounting the right to education. Every single child has got the right to education. Let me categorically emphasize that.

But having said that, the lack of support base, the lack of a social support, the lack of, let's say, to talk for him or her, lack of a union to represent, lack of a certain community to represent will inevitably lead the employer to exploit, I repeat, to exploit the children under 14 years of age. So this is what was the motto why Child Labour Protection Act came into existence in the first place. We'll look into more details in the coming lecture.

Till then take care. Bye-bye.