

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

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**Week – 08**

**Lecture – 02**

Namaskar. Dear learners, welcome back to the course on Labour Welfare and Industrial Relations. We move to the second and third lecture of Module 8. We'll try to combine these two lectures because when we have tried to introduce specifically the Child Labour Act, I would like to specifically take care of the provisions that involved or included in the Act.

And I would also like to look into the penalties and procedures whereby discussing or underscoring the salient features of the Act. I'm Dr. Abraham Cyril Issac. I'm a faculty at the School of Business, Indian Institute of Technology, Guwahati. So I'll directly move into the prohibition of employment of children in certain occupation and processes based on this Act. When we have discussed about child labor, the problems, the related issues that emerged in the previous lecture, the starting lecture of this module, we had specifically underscored on the background of how this act has emerged or has come up.

We have also certainly addressed on certain provisions that existed before and the logic behind that too. Today, we'll look into the Child Labour Prohibition and Regulation Act. What does it prohibit? When you're looking into the word prohibition and regulation, what does it prohibit? It prohibits the employment of children below the age of 14 years in 18 occupation and processes.

I repeat, it prohibits the employment of children below the age of 14 years in 18 occupation and 65 process. So it would be out of the scope of the entire course if I tried to detail on every single process. I go lecture after lecture for that, but I will try to give you a bird's eye view of the entire 18 occupations and specifically the processes associated.

So no child may work or be engaged in any of the occupation listed in part A of the schedule.

I'll quickly detail on that too. or in any workplace whereby any of the processes listed in Part B of the schedule are also performed. So these are some of the aspects which are coming ahead of you in this session. Let's quickly look into the occupations listed in Part A. And we are looking into the occupations listed in Part A. One, it starts with the transport of passengers, goods or mails by a railway.

Second, the cinder picking, cleaning of an ash pit or building operation in the railway premises is what you understand by cinder picking for the people who don't know that. The third aspect or the third occupation in the provision of Part A is work in a catering establishment at a railway station. Fourth one is work relating to the construction of a railway station. The fifth one is a port authority. So we have tried to define the port authority.

We'll emphasize on that again. And the sixth aspect of the sixth occupation is work relating to selling of crackers and fire workers in shops with temporary licenses. So, these are showing the way the act cares about children because of the logic or because of the spirit of the law trying to avoid hazardous working conditions or general occupational hazards from the workplace scenario. Other important occupations are work relating to selling of crackers and fire workers within temporary licenses.

I've already mentioned that. Abattoirs, which are also called slaughterhouses. And then automobile workshop and garages. Garages are where the exploitation heavily happens. Foundries, handling of toxic or inflammable substances or explosives.

So you can understand, you can get the spirit throughout the listing of this occupation that there is an inherent weightage or concern given to all those issues pertaining to the exploitative working conditions. The problems associated with hazardous working conditions, hand loom and power loom industry, again, the child labor is seen heavily in those industry. Mines, specifically the dangerous underground, underwater and collieries. The plastic units and fiberglass workshops, employment of children as domestic workers are servants. So there is a provision for that too.

Now, interestingly, seldom the occupation lists down a lot of other aspects, but many a time. Child labor significantly happens in our own residences. If we just introspect within ourselves, maybe our relatives, maybe somebody whom we know, maybe people who are well-educated, well-placed, well respected in the society. They might have employed a domestic servant or domestic worker who are treated as servants.

So who are within the age of the within the limit of this Child Labour Act. So all these aspects are to be understood. And interestingly, the occupations listed in Part A also includes critically the employment of children as domestic workers or servants. Employment of children in dhabas, roadside eateries, restaurants, hotels, motels, tea shops, resorts, spas or other recreational centers. Diving, circus because there has been allegations after allegations that lot of exploitation happens around in circus.

Caring of elephants. Now let's look into the part B. Processes listed in Part B. So we have tried to cover the occupations that generally are concerned with the Part A occupations, which are concerned with the child labor happening in dangerous hazardous areas and other unnoticed areas generally. When we come to process listed in Part B, the first one is BD making, second carpet weaving, cement manufacture, including bagging of cement is the third one, cloth printing, dyeing and weaving is the fourth one, mica cutting and splitting sixth, seventh would be

shellac manufacture, soap manufacture, tanning, wool cleaning, followed by building and construction industry including processing and polishing of granite stones, manufacture of slate pencils including packing, manufacture of products from agate, manufacturing of process using toxic metals. and substances such as lead, mercury, manganese, chromium, etc. Hazardous processes as defined in section 2CV and printing as defined in section 2K in Factories Act 1948. So, basically you will see that there is a mix of processes that are very risky in terms of the work conditions, in terms of the work in itself, especially when you are looking into the mica cutting, splitting, or let's understand the hazardous processes defined in Section 2Cb, or maybe manufacturing processes using metals and substances such as lead, mercury and manganese, chromium, etc., which can have a lasting impact on the child in itself.

So that is the very basic reason behind looking into such processes being listed into Part B. Now there are also other aspects like cashew and cashew nut descaling and processing which again requires heavy manpower and it is still done with the help of lot of child labor. Unfortunately soldering process in electronic industries, the finger dexterity and all those issues comes into play here which inevitably something that is being associated with child labor. Agarbati Manufacturing Automobile Repairs and Maintenance Bricks and Roof Tiles Unit Cotton ginning and processing and production of hosiery goods.

Detergent manufacturing. Again, the use of chemicals and the vicinity of chemicals is quite exploitative in its nature itself. Fabrication workshops. And this is concerned with ferrous and non-ferrous. So that again would have lasting impact within the physical condition of the child or would actually require heavy manpower.

Gem cutting and polishing again, the finger dexterity comes into picture. But again, this is a very precision driven activity. So a lot of exploitation happens here, especially with respect to the what the economic value is generated and what is actually paid to the particular individual who is behind. working for that particular product maybe with respect to the gem cutting and polishing handling of chromite and manganese ores again another exploitative and dangerous work hazard or work condition due to textile manufacture and coir making we see a lot of child labor involvement there or we have read about that lime kilns and manufacture of lime again the traditional setups lock making manufacturing process having exposure to lead.

So this is again coming in both in occupation as well as processes. Also aspects related to or associated to manufacture of cement pipes, cement products and other related work. Though there is a heavy involvement of child labor in process industries, especially something like cement pipes, cement products, etc. The working conditions are exploitative in nature. The working conditions are

Hazardous in nature, manufacturing of glass, glassware including bangles, fluorescent tubes, bulbs and other similar glass products. Again, it's very tough, very difficult, very critical and very dangerous for children to engage in such work activities. Manufacture of dyes and dye stuff, manufacturing or handling of pesticides and insecticides. This will

have a lasting impact in the physiological condition of the child itself and he or she may have stunted growth and other issues that can happen with respect to long exposure towards chemicals that generally make pesticides and insecticides. Manufacturing and processing on handling of corrosive and toxic substances is also another process that is included in part B. Manufacturing of burning coal and coal breakers because this will essentially have a lot of ash content pushing into manufacturing.

the internal organs of the particular child. There are a lot of occupational hazards associated with it, dangerous conditions associated with it, especially in power plants where they are exposed to a lot of chemicals and a lot of coal deposits, ash deposits, etc., manufacturing of sports goods involving exposure to synthetic materials, chemicals and leather. which is again another industry which heavily we have observed that child labor is there moldings and processing of fiberglass and plastic oil expelling and refinery talks about very hard and hazardous work condition paper making similarly potteries and ceramic industry is more of traditional and household activity Polishing, moulding, cutting, welding and manufacture of brass goods in all forms. Again, all these lead to difficult or tough working conditions specifically.

So these are some of the processes listed in Part B. When we look into Child Labour Prohibition and Regulation Act 1986, though we have listed down on a list of, let's say, occupations in Part A and processes in Part B specifically. There are certain exceptions that are included in the Child Labor Prohibition and Regulation Act. And these are one, children can be employed in the process of packing. So let's understand this though we have talked about some of the packing industry. But packing should be done in an area away from the place of manufacture to avoid the exposure

Now, this is in line with the judgment in the case of MC Mehta was a state of Tamil Nadu 1991. And also there is another exception, which is with respect to the prohibition of employment of children is not applicable. To any workshop where in any process is carried on by the occupier with the aid of his family or to any school established by or receiving assistance or recognition from the government. So government exception is also a part of this. The prohibition of employment of children.

is not applicable there. So this is again some exceptions. There are some other provisions of Child Labour and Prohibition and Regulation Act, especially when it comes to some understanding, basic understanding of hours and period of work. Let's look into that. These are not exceptions.

These are other provisions. So I've already looked into certain aspects which include some of the work occupations which are included in the part A. Part B has certain processes. I've talked about some exceptions and I now come into some of the provisions which define the act in total. So hours and period of the work, section 7, no child. No child shall work for more than three hours before he has had an interval for rest for at least one hour.

So this is critical with respect to the timing. It shall not be spread over more than six hours, including the time spent in waiting for work on any day. So again, there are clear provisions for the time limit, how much time or what should be the interval in between. So no child shall be permitted or required to work between 7 p.m. 8 a.m.

this is interesting and this is sometimes this becomes crucial especially in preventing exploitation at night so no child shall be permitted or required to work between 7 p.m. and 8 a.m. no child shall be required or permitted to work between Over time, even if the employer, if he or she is not luring or not attracting the child with extra money, still if let's say the child in himself or herself is trying for more money, but still no child shall be required or permitted. So even if it's voluntary or permitted to work overtime.

So double employment of a child is also bad. So these are some of the provisions with respect to hours and period of the work according to Section 7. Child labour technically advisory committee is to be formed under Section 5. Section 5, Clause 1. The central government may, by notification in the official gazette, constitute an advisory committee.

to be called the Child Labor Technical Advisory Committee to advise the central government for the purpose of addition of occupations and processes to the schedule. And similarly, Section 5, Clause 2, the committee shall consist of a chairman and such other members not exceeding 10 members. As may be appointed by the central government. So there is clear provision and instruction given within the law for

establishing a child labor technical advisory committee. And this is illustrated in section 5.

If you look into the section 9 of the act there is notice given to inspector. After the commencement of this act every occupier in relation to an establishment who employs or permits. So these are two aspects. Many a time employers try to bluff or circumvent the system by stating that the child came himself or herself, they just permitted him or her to work. So even the law encompasses that, even the law tries to include that.

So who employs or permits to work any child shall, within a period of 30 days from the date of such employment date, Send a notice containing the details of name and situation of the establishment to the inspector within those within whose local limits the establishment is situated. So this is with respect to Section 9. Section 10 looks into the disputes as to age. So if any question arises between an inspector and an occupier as to the age of any child who is employed in the absence of a certificate.

So many a time what happens? We are looking into two aspects. One, we are looking into individuals who are minor, who do not have a specific age certificate. That could be one possibility because they are not educated, their parents are not educated, they don't have access to the official systems of let's say a panchayat or a corporation. Second, there is a possibility that to gain more money, to have a provision or opportunity to work, they might be telling lies or they might be masking their age.

They might be not disclosing the real age. There is a possibility for that too. So considering that in the absence of a certificate as to the age of such child granted by the prescribed medical authority. So the medical authority would be referred by the inspector for a decision to establish the age of the particular child.

Now, when we look into the weekly holidays, section 8 talks about the child employed in an establishment is entitled for a holiday of one whole day in each week. So, it cannot be that situation that All the days of a week, the child has to work. According to the law, the child employed in an establishment is entitled for a holiday of one whole day in each week. So the writings or the words used in the law is very precise.

One whole day so that no exploitation or no circumventing the law happens. So that there is a clear obedience, there is a clear discipline and there is a clear following of the law in both letter and spirit. Maintenance of register is prescribed according to section 11. There shall be a register maintained by every occupier in respect to children employed are permitted to work in any establishment a register to be available for inspection by an inspector at all times during working hours or when work is being carried on in any such establishment so

When you are looking into different sections, especially section 12, display of notice containing abstract of sections 3 and 14. Every railway administration, every port authority, every occupier shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port or at the place of work as the case may notice in the local language and in the English language. Section 13 says, Underscores the relative importance of the health and safety. The appropriate government may by notification in the official gazette make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishment.

So there is more super weaning, there is a more encompassing option given to the appropriate government. It could be either the state government or the central government, whichever purview or under whose purview the work comes in, the process comes in, they are free by notification of official guest to create a law, to create a rule whereby they take care of the health and safety of such children. Now, let's look specifically into the penalties. It's not that there are only provisions given for the undertaking of the law. There are certain penalties.

There are certain, you know, fines that are associated with the non penalties. obedience or non-compliance of the particular law so whoever employs any child or permits any child to work in contravention to the provisions of the section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine, which shall not be less than 10,000 rupees, but which may extend to 20,000 rupees, or with both. So, that clarifies that the government or the execution or the executory body is serious about bringing out a clear environment, environment free of child labor there's also provision in section 14 clause 2 whoever



having been convicted of an offense under section 3 commits a like offense afterwards he shall be punishable with imprisonment for a term which shall not be less than six months but which may be extended to two years

Section 14 clause 3 fails to give notice as required by section 9 or fails to maintain a register as required by section 11 or makes any false entry in any such register. Remember, recollect in the previous slide we had looked into the provisions concerning The notice as well as the register and also C fails to display a notice containing an abstract of section 3 and this section as required by section 12 or fails to comply with or contravenes any other provisions of this act or the rules made there under shall be punishable with a simple imprisonment which may extend to one month or with fine which may extend to to 10,000 rupees or with both. So there are certain critical provisions given in section 14 with respect to the penalties that is associated with the breach of the law.

And you look into the modified application of certain laws in relation to penalty, there is section 15 that has been brought by whereby any person is found guilty and convicted of contravention of any of the provisions mentioned in subsection 2, he shall be liable to penalties as provided in subsections 1 and 2 of section 14 of this Act and not under the Acts in which those provisions are contained. So basically, section 15 talks about the modified application of of these laws in respect to the penalties that were discussed according to section fourteen section fifteen clause two refers the provisions referred to in subsection one other provisions mentioned below one is section sixty seven of the factories act nineteen forty eight Section 40 of the Mines Act 1952.

Section 109 of the Merchant Shipping Act 1958. And finally, Section 21 of the Motor Transport Workers Act 1961. So let's look into Section 15, Clause 2. Section 67 of the Factories Act 1948. No child who has not completed his 14th year

shall be required or allowed to work in any factory. Similarly, Section 40 of the Mines Act 1952. After the commencement of the Mines Amendment Act of 1983, no person below 18 years. So see the provisions. One was with respect to Section 67 of the Factories Act 1948.

The age was 14th year. In work factory in factory premises in when it comes to mine no person below 18 see the hazardous working conditions kicking in no person below 18 years of age shall be allowed to work in any mine or part thereof notwithstanding anything contained in subsection 1. apprentices and other trainees not below 16 years apprentices and other trainees not below 16 years of age may be allowed to work under proper supervision in a mine or part thereof by the manager similarly we also have a provision in section 21 of the motor transport workers act 1961 No child shall be required or allowed to work in any capacity in any motor transport undertaking. So this clarifies the relative importance of how a child could create issues if he is

being given or being allowed or is forced any condition either allowed or forced towards any motor transport activity so let's understand the procedure relating to offenses so we have talked classically about section 15 which gave the provisions with respect to different acts like factories act mines act motor transport workers act etc we talked about the different modified applications Pertaining to certain laws in relation to the penalties like we compared section 15. Now we venture into section 16. Where we look into the procedure relating to offenses. So section 16 clause 1.

Any person police officer or inspector may file a complaint. Of the commission of an offense under this act. In any court of the competent jurisdiction. So this is the procedure relating to offense. How it could be addressed from scratch.

Section 16 clause 2. Every certificate as to the age of the child. Again we have already initiated this discussion. On the certificate related to the age of the child. Which has been granted by a prescribed medical authority.

SHARL. For the purpose of this act, be conclusive evidence as to the age of the child to whom it relates. We have already mentioned this in the previous slide, where there is a possibility that being from a relatively low economic status background, there is a possibility that Either the child is not aware of his or her age or there is a lack of accessibility. There are problems of accessibility with respect to the government bodies like Manchayat or corporation whereby he or she can go and access his or her birth certificate and ascertain the age.

And more than that there is a possibility that the child may himself or herself try to give a wrong figure. to garner, to get benefits of employment and to stay away from his studentship or be an active child and just go and fetch some money. So this is a possibility. So every certificate will have certain conditions. And if that is not available, a prescribed medical authority shall, for the purpose of this act, be conclusive in terms of evidence to the age of the child to whom it relates.

Clause 16, sub-clause 3, no court inferior to that of a metropolitan magistrate or a magistrate of the first class shall try any offense under this Act. Now, this ascertains, this very provision, especially Clause 16, Section 16, ascertains the importance the government or the legal luminaries or the legal body is giving to this particular act. So the moment you are refraining any inferior court, court inferior to that of a metropolitan magistrate or a magistrate of the first class, not to try and convince anybody under this act it shows the relative importance of the weightage you are giving to this particular act now let's quickly look into an amendment bill because in the introduction video itself i mentioned my responsibility here is to give you an updated understanding of the law where it stands because law is always a precise endeavor

So we have to be updated. We have to be on our toes. The moment we are talking, things are getting updated. So I tried to give the most recent version wherever possible. Child Labour Prohibition and Regulation Act.

There has been an amendment bill that came in 2012. Later it was approved, aimed to strengthen the child labour laws in India. It proposed stricter rules. to prohibit child labor in hazardous industries, hazardous working conditions. So the bill prohibits the employment of children under 14 years of age in all occupations.

As clearly mentioned, exceptions were made for family-based businesses and the entertainment industry. Now, the legislation aimed to align with the international conventions and protect children's rights. It addressed the issue of child exploitation. And ensure their education and well-being, because if a child is directed back towards education, there is probability, there is possibility that child labor can be curbed to a great

extent. The bill aimed to provide a legal framework for better enforcement of child labor laws.

regulations because though there were regulations, the legal framework were less of provisions in terms of the spirit of the law. It aimed to penalize employers who violates child labor laws with fines and imprisonment and finally the bill was part of India's effort to combat child labor and to promote the welfare of the children. So when you are looking into the amendment rule, The Amendment Act came in 2016. The Parliament passed the Child Labour Prohibition and Regulation Amendment Bill 2016 in July 2016.

This Act not only amends the Child Labour Prohibition and Regulation Act 1986 but also widens its scope and provides for a strict punishment in case of its violation. So it has become more stronger and more severe and it has got the toot to actually create troubles for the people who are trying to exploit children further. Now, when we look into this updated version of the Child Labour Prohibition Regulation Amendment Act 2016, there are slight modifications in terms of the provisions and definitions.

So we quickly look into that because in the previous lecture we had looked into the different definitions associated with the initial act. Here we are trying to focus on the amended act 2016. So in this the definition of child the 2016 amended act changed the definition of child to mean an individual who has not reached the age of 14 or interestingly The age provided in the right of children to free and compulsory education act 2009 whichever is higher. So this is an important modification or amendment that has come as part of this act and there has also been important input.

The definition of adolescent, the term adolescent refers to a person who has completed his 14th year of age, but has not completed his 18th. So there has been critical brainstorming that has happened. What next? What happens after 14? We cannot see much of difference between a 14 year old and a 15 or a 14 and 16 and that's the age where lot of troubles start coming in.

The dollars and age going through the psychology will show us that a lot of troubles can happen naturally and here. When you are being exploited, this could be dangerous for the entire system. So the Amendment Act defines an adolescent who comes in the bracket of

14 years. Adolescent employment prohibition also comes into picture. New laws have restricted the employment of teenagers in hazardous occupations or processes.

So if you think that the Child Labor Act is only till 14 and exploitation can happen after that, It has brought in, especially in the Amendment Act 2016, that adolescent employment prohibition is also now in picture. So we are looking into situations and hard penalties if somebody is being employed in the hazardous occupations or processes. Now there is strict punishment. While the punishment for companies has been dramatically increased, the punishment for individuals and guardians has been lessened.

So mainly the organization-wise, the action will be more severe with the Amendment Act. Child labor is now a cognizable offense. So any employer... Committed offense punishable under the Child Labor Act in India is now a cognizable offense. So as a result, authorities can file an FIR, begin investigation and arrest without a warrant.

So these are some of the Child Provisions Act. Then concerning the district magistrate's authority, the district magistrate has authority to ensure that the requirements of the modified legislation are appropriately implemented. Also, there is a provision that has been provided for accused to apply to the district magistrate for the compounding of offences which was not available in the initial act. Now, the Child and Adolescent Labour Rehabilitation Fund is also established, the acceptable government fund. As established, whether it is a central of the state, as per the case, has established a dedicated fund in each district or two or more districts for the rescue and rehabilitation of children and adolescent, though the law has been here for a couple of decades.

There are still cases of child labor reported. So such cases to rescue and rehabilitate those individuals, those children and adolescents, such a provision has been brought in. Also, the acceptable government has set provisions for periodic inspection. And monitoring of sites where the employment of minors is forbidden and the harmful vocations or procedures are managed. So let's look into some of the positive outcomes of the Child Labour Amendment Act specifically.

We have tried to emphasize on the differences here. We have tried to understand what important updates have happened with respect to this particular Amendment Act. Now,

let's look into the positive outcomes of this Child Labor Prohibition Regulation Amendment Act 2016. One, it has brought Indian law in line with the International Labor Organization, ILO. conventions law it advocates for a full prohibition on child labor so that children can get obligatory basic education under the RTE under the right to education so that is what has happened especially with the amendment

People, if they are moving to the direction of education, if they are given a certain right to education, they are given certain assurance about the right to education. People tend to be more focused towards getting education rather than creating money in their childhood. The act acknowledged the reality of family businesses and allowed children to assist their parents in running their family businesses because there are issues concerned with that or people have reported issues with respect to that. So there are certain provisions given which were absent in the initial act from the beginning. So it has toughened the penalty for hiring youngsters because as you would have noticed earlier,

There is a new situation or new segment of adolescent coming into picture. It has toughened the penalty for hiring youngsters and made child labour a punishable offence. So when you are looking into other positive aspects of the amended Act, the Act has increased awareness about the children's rights and the harmful effects of child labour on the physical, mental and educational development. It has contributed to reducing The number of children engaged in hazardous work, as I've already underscored, that mainly the amendment was focused in and around hazardous, that was the very spirit or the logic behind bringing the adolescent also into picture in hazardous work and has helped improve their access to education and other opportunities.

The act has also led to stricter enforcement and monitoring of Of child labor practices. By authorities. However challenges still exist. Particularly in the informal sector.

Where child labor persists. So efforts are ongoing. To strengthen implementation. Raise awareness. And fully support vulnerable children.

And their families to eliminate. child labor in India. So this has been the discussion so far with respect to the child labor protection, their welfare act. So when we started about the

discussion of child labor and the need to actually prevent that, the law, the legislations associated with that.

We stated that this was the one-stop solution for everything, or at least there were provisions which could have given that. But unfortunately, over the decades, we have seen that though there are some successes, There are some possible positives about the particular law. It has been some decades since we have got any actual tangible outcome. So we have amended the law.

We have made the law more stronger from 2016. There has been provisions with respect to adolescence also. What happens after 14? As I already mentioned in our discussion, there is hardly any difference between a 14-year-old and a 15-year-old. Or a 14 year old and a 16 year old.

So how do you define the first thing was you have given the age limit, not as 14, but you have given the premise of the importance to right to education is the age pertaining to the right to education. Second most important thing, you have brought in a certain segment which are also prone to vulnerabilities, also prone to exploitation, which is the adolescent age, that is 14 to 18. So those hazardous situations, those hazardous work conditions, they are also brought up. being prohibited to work in such situations. There are certain conditions in which they are being prohibited.

So these are the updates and I am pretty sure that it will make the law, the act more stronger and more vibrant. That's all from today's session. We'll see you with lecture number 4 in the next session. Till then take care. Bye bye.

Namaste. Thank you.