

Course Name: Labour Welfare and Industrial Relations

Professor Name: Prof. Dr. Abraham Cyril Issac

Department Name: School of Business

Indian Institute of Technology Guwahati

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Lecture: 53

Lec 53: Introduction, Labour reforms undertaken

Hello, learners. Namaste. Welcome to the last module of this course, where we look into some of the most recent updates with respect to labor welfare and industry relations. This was a promise I made during the introduction of the course that I will try to look into some of the recent updates specific to the labor Codes, labor welfare, etc., So we'll look into the labor reforms in India generally in this module and specifically some of the greatest updates are coming your way.

I'm Dr. Abraham Cyril Issac. I'm an assistant professor at the School of Business, Indian Institute of Technology, Guwahati.

So when you look into the labor welfare and industrial relations specifically or the entire set of last 11 modules, we have looked into different aspects, different aspects from how labor welfare actually got evolved and finally what were the different or who are the different players with respect to the labor welfare industry relations you have seen all that let's look into some of the labor reforms that are essential that has been made and that are still pending now so let's look into that in greater detail let's look into labor ,specifically If you see, it's a subject in the concurrent list.

So what is concurrent list? Concurrent list has both the state and the centre as the main actors behind those particular elements wherever it comes concurrent list. You see that both the authorities have jurisdiction over the particular subject. So labour is such a

subject which is part of the concurrent list under the constitution of India. Now when you look into

you know both the central and state governments they are competent to actually enact legislation on this matter now when you say that we have to acknowledge that certain matters are definitely being reserved for the center and it comes under that jurisdiction so labor jurisdiction is basically a constitutional status it is coming under the concurrent list now When you look into tabulation of union list and specifically the concurrent list, we can see entry by number. Entry number 55, regulation of labor and safety in mines and oil fields is the related component. When you look into entry number 22, trade unions, industrial and labor disputes are part of the entry number 22. Entry number 61, industrial disputes concerning union employees are part of entry number 61.

Social security and insurance disputes Employment and unemployment part of entry number 23 specifically. Union agencies and institutions for vocational training part of entry number 65. When you look into entry number 24, we have welfare of labor, including conditions of work, including provident fund, including employers, invalidity and old age pension and maternity, etc. Now, let's understand what were the conditions before labor reform specifically.

A bit of history, a bit of the philosophy coming into your way, and a bit of reality hitting your way. When you are looking into the conditions before labor reforms, you will see that before the implementation of labor reforms in India specifically, There were several difficulties and challenges that were associated with existing labor laws and specific regulatory frameworks. Some of the key difficulties, if you ask me, I'll say one was this complex and fragmented laws. When you look into the law specific during that time period, these were complex and fragmented laws.

The labor laws were numerous. The labor laws were numerous and they were spread across various statutes everywhere. At both the central and the state level. So this complexity actually led to confusion and difficulties in compliance for both the employers and employees. When we look into other specific aspects before labor reforms, we'll see that there were issues of rigid hiring and firing process.

The existing laws were criticized, certainly, for making it challenging for employers to hire and fire workers. You know, stringent regulations often made it very difficult, very critical for businesses to actually adjust their workforce in response to the changing economic conditions specifically. When you look into the conditions before labor reforms, you'll also see that there were multiplicity of inspections and, you know, compliance procedures, etc., The inspections and compliance procedures were perceived as a cumbersome and moreover a time-consuming process. Not only cumbersome, but also a time-consuming process.

There were multiple regulatory authorities that conducted inspections, leading to a high compliance burden for businesses specifically. Then there were informality and lack of social security. A significant portion of the workforce in India operated in the informal sector, lacking the job security and access to certain social security benefits. So the previous loss... were seen as insufficient in addressing the needs of the informal workers specifically.

So this was, you know, over the discussions in this course in particular, in the previous modules, totally, we have seen this has been one of the most critical aspects. The informal workers there, the previous law specifically was seen as insufficient in addressing the needs of the informal workers. Another important aspect, if you cross examine what happened before the labor reforms were the lack of flexibility in work arrangements. With the regulatory framework, the laws did not actually provide enough flexibility for employers and employees to negotiate work arrangements that suited their mutual needs. This lack of flexibility was considered a hindrance to the modern workplaces, the modern work arrangements, modern work contracts, etc.

There were also issues of delayed dispute resolution. Dispute resolution in itself was a critical lacunae, but also we see that there were delayed dispute resolution process specifically under the Industrial Disputes Act were often criticized for being time consuming, for being very cumbersome and resulting in prolonged legal battles. So this could actually create certain uncertainties for both parties. the employers and the employees and it was one of the critical aspect when it was discussed especially with respect to labor reforms that we do have dispute resolution mechanisms but unfortunately

all our dispute resolution mechanisms especially the framework guiding those dispute resolution mechanisms were actually going for delayed dispute resolution another important or significant aspect would be obsolete legislations we were always looking at obsolete legislations Many of the existing labor laws, many of the critical labor frameworks were outdated and not aligned with the contemporary or relevant business practices and technological advancements for that matter.

The legal framework needed updating to reflect the changing dynamics of the economy specifically. And most importantly, the most important factor, if you ask me, was a resistance to change, that inertia. The inertia or the resistance to change the proposed labor reforms face this resistance from certain quarters, including, you know, unfortunately, trade unions and even some workers group who were concerned about the potential job insecurity and the erosion of, let's say, labor rights. So this resistance categorically created challenges in the legislative process. The difficulties mentioned above prompted the need for comprehensive labour reforms to create a more modern, transparent and business-friendly regulatory environment while ensuring the protection of workers' rights.

The reforms aim to strike a balance between flexibility for employers and safeguards for employees' promoting. Economic growth and job creation. However, it's essential to note that the opinions on these reforms may actually vary among different stakeholders specifically. So these were some of the conditions before labor reform, some of the critical elements that were persistent before labor reforms. When you look into the labor reforms since 2014.

We have to specifically acknowledge and appreciate that we have worked towards transparency and accountability, especially the usage of IT-enabled systems for inspection has been made mandatory. The particular ceiling limit of gratuity has been increased from. Let's look into these figures specifically and try to appreciate the labor reform since 2014. The ceiling limit of gratuity has been increased from rupees 10 lakh to 20 lakh. If you are asking me the exact date, 29-03-2018, it has been almost till 20 lakhs now.

On 16-2017, Payment of Wages Act. Enable the payment of wages to employees by check or crediting in their bank account. We have already seen this in detail when we discussed the Payment of Wages Act specifically and the amendment of the same. The Maternity Benefit Amendment Act, which we have seen, has also shown us that it increased the paid maternity leave from 12 weeks to 26 weeks specifically. So these are some of the critical labor law reforms that have happened since 2014.

Now, when you are looking into the framework, we have to understand the basic framework of labor laws in India. According to the labor reforms specifically, employers are not technically allowed to employ workers on a fixed-term basis for jobs that need a continuous workforce. Now, this provision actually aims to ensure job security. That is the essence of that particular provision.

So, it prevents the exploitation of workers to a great extent who are in temporary contracts or Also, if you see, the labor Codes emphasize the concept of minimum wages. It mandates that the workers should actually receive wages that is at least equal to the minimum wage set by the respective state governments. Objective is to provide a decent standard of living for workers and it also aims to prevent the wage disparities. When you look into the labor reforms, it introduced a standard provision for the maximum number of working hours in a day.

It states that the employees actually cannot make to work for more than eight hours a day. Excluding overtime. So, this particular provision is aimed at promoting work-life balance. Now, this is something which is critical. We already had a discussion, especially there are some people who are against work-life balance.

So, who argue that there is nothing called as work-life balance. But please note, for an efficient and effective working system, for increased productivity, for increased concentration and efficiency, the focus in the work, work-life balance is essential. So, it protects workers from excessive work hours and the associated overload with respect to the brain and emotion. When you look into the labor code specifically, they specify that if an employee works beyond the maximum working hours, the employer must provide overtime wages.

The overtime wage rate should be at least twice the normal wage that is being specified. So, this provision provides Ensure that the employees are compensated fairly for their additional work. When you look into the labor reforms background specifically, we'll see that as per the central government before the new labor Codes were passed. There were more than 40 central laws and I think more than 100 state laws on labor and related matters.

Now, this was a humongous number, but considering the effectiveness of these laws and central laws and state laws, it was not up to the mark. So the second National Commission on Labor, 2002. Specifically, recommended that the central labor laws should be integrated into groups like industrial relations, wages, social security, safety. Welfare and working conditions. So this was recommended by the commission because the existing labors, as I am already mentioned, were archaic.

They were complex and essentially they had inconsistent definitions. Please note in the previous module, we have tried to establish who a worker is. And now that definition would be definitely inconsistent with the earlier definitions we have seen in the previous modules. So within our definition, our set of discussions itself, we see that there is a lot of inconsistency that is developing.

And then when we are looking into the entire, you know, the platform or entire base of loss. So this is certainly worth interrogating, worth investigating. When you actually look into our entire set of discussions, we see that There are certain inconsistencies across even minor definition. Who is an employee?

Who is an employee? Who is a worker? What do you mean by working conditions? What do you mean by even welfare? So there are different aspects or different definitions or different understanding that each law or each act is giving.

With respect to that, there are certain inconsistencies. And this was one of the vital aspects when the labor code formulation was discussed and deliberated. Because we have a set of laws. As I mentioned, if we just try to list it down, there are more than 100 state laws. There are more than 50 central laws.

But what do they actually do? They have certain inconsistencies. They had been critical at that point in time. But due to changing, we have seen the change in work contracts. We have seen the changing work arrangements.

We have seen the changing demands and requirements of the labor workforce. We have seen the changing ratio of the informalization of the workforce. All these caters to one thing that we need to update. We need to upgrade our labor laws, labor regulatory frameworks, etc. That was the reason why the labor code came into picture in the first place.

So when you look into the inconsistencies, and this is one of the vital points, Even when you look into the functional definition of each and every stakeholder, each and every factor within the labour welfare industrial relations ambit, if we see inconsistency, it is time to revise. And this was what the key intention of the Labour Code was entirely about. Now, when you look into the labour reform specifically, we see that in 2019, The central government introduced four bills on labor Codes to consolidate all the 29 central laws.

Let's look into that in greater detail. The first one was Code on Wages. The second one was Industrial Relations Code. The third one was Social Security Code. And the fourth one was Occupational Safety, Health and Working Conditions Code.

So this was one of the most vital amalgamation of the entire 29 central laws. While the wage code... was passed in 2019 please note the other three bills were referred to a standing committee on labour so as per the recommendations of that particular committee the government replaced these bills with new ones in September 2020 and these were passed in the same month so the rules for all the four labour code bills would be notified in one go according to the labour ministry what we have seen and observed hence even though The draft rules for the wage codes had been circulated in 2019 itself. The ministry withheld its finalization and implementation because of the aforementioned reason.

So this is what you have to understand when it comes to the code. Specifically, the central government tried to amalgamate these specific four critical fields of laws or dimensions of laws. And the specific nitty gritty is associated with these laws specifically. Now,

when you look into the labor Codes, let's have an overview. The central government has amalgamated the four laws of the wage code.

Nine laws in the Social Security Code, 13 laws in the Occupational Safety, Health and Working Conditions Code 2020 and three laws in the Industrial Relations Code. So four labor codes will be available to workers of both organized and unorganized sector, especially employees Provident Fund EPF, Employees Pension Scheme EPS. And coverage of all types of medical benefit under employees insurance will be available to all the workers. So these were some of the critical changes that have taken place when we have an overview of the labour Codes. Now let's look into the objectives of labour Codes in India specifically.

The introduction of these labor Codes in India, as I have already stated and time and again discussed, was driven by several objectives aimed at simplifying and modernizing the existing labor laws. As of my last knowledge update in January 2022, the key objectives of the labor Codes in India would include simplification and consolidation. When you look into this aspect of simplification and consolidation, the primary objective is to definitely streamline and consolidate the numerous existing labor laws into a smaller set of Codes. This simplification is intended to make the regulatory framework more comprehensible for both the employers and employees. Another important aspect would be the ease of compliance.

When you look into the ease of compliance, the Codes actually aim to enhance the ease of compliance for businesses by providing a more coherent and standardized set of regulations. coherent and standardized set of regulations. So what we understand is that this ease of compliance is expected to reduce the administrative burden on employers and facilitate better adherence to the labor law. So this is what is expected when you talk about the ease of compliance. When you look into the third factor or the third critical objective of the labor code in India, we see that flexibility in employment comes out to be critical.

The Labour Code seeks to introduce greater flexibility in employment arrangements, making it easier for employers to adopt and adapt to changing business needs and

requirements. So this includes maybe provisions relating to working hours, provisions of working conditions, the safety of working conditions, and even to a certain extent, term of employment. So flexibility in employment is yet another important objective of the Labour Code. underlined by the aspects related to working hours, aspects related to conditions and even the terms of employment. When you're looking into enhanced social security, the code on social security in particular focuses on expanding and improving social security measures for workers.

This actually includes provisions related to provident funds, related to employee insurance and all other welfare measures for that matter. When you look into the promotion of industrial relations as one of the key objectives of the Labour Code in India, we'll understand that the Industrial Relations Code typically aims or attempts to foster better industrial relations by simplifying the dispute resolution mechanisms and provide clarity on matters related to trade union, related to issues like strikes and lockouts, etc., When you talk about the worker welfare as one of the key objectives of the Labour Code in India, we'll see that the overall objective of the Labour Code is to safeguard the interests and the welfare of the workers. So this certainly includes ensuring, you know, the fair wages, safe working conditions and even access to critical social security benefits. We also have another important objective of adaptation to modern work practices.

Please note, that we are living in a world where there are changes in the modern work practices. So these codes are designed specifically to be more adaptable to the modern work practices, taking into account changes in the employment landscape. It could be changes like the gig economy, something which we have discussed earlier. Gig economy or let's say the flexible work arrangements.

So these are some of the critical aspects will be taken into account that have happened over the previous decade. When you look into the facilitation of economic growth as one of the most critical objective of the labor code, we'll see that by creating a more business friendly environment and addressing the needs of both employers and employees. The labor Codes specifically aim to contribute to overall economic growth and development. So these are some of the critical objectives of the labor code in India. And what we

understand with respect to the labor codes is that there has been a growing demand for the change because of the changing working conditions.

And this is what has happened as a consequence. Now, when you look into the uncertainties related to the current labor reforms and their uncertainties, we have to see it from different dimensions. When you look into the specific uncertainties which I have tried to establish, the first and foremost was the definition of different aspects like different factors like workers, employees. There are a lot of other such inconsistencies that have happened with respect to the definition point. When you look into the inspector cum facilitator, we see that the new codes have thrown light on the role of an inspector cum facilitator who has the responsibility of checking for compliance as well as facilitating businesses in achieving that particular compliance of these laws.

So the facilitator role seems to be a new element and this role could clash with the traditional responsibilities of an inspector. When you look into the lack of clarity, specifically, as I mentioned in defining the different elements like workers and employees, you have to also see that more clarity can be brought in, especially by bringing in distinction. Let's say something like overtime compensation. What do you mean by overtime compensation? When you look into critical aspects, like particularly in light of COVID's remote working policies or maybe work from arrangement, work from home arrangements, what do you mean by overtime compensation there?

Or the relationship between organizations and gig workers, etc. So all these aspects are also critical when you look into the clarity of terms and terminologies. Now, when you look into, let's say, some critical aspects of small startups and, let's say, informal sectors being left out from Social Security coverage, you'll see that there are no specific provisions for Social Security of employees in small startups. Micro, small, medium enterprises or workers in small establishments have less than 300 workers. So what we see, migrant workers...

The self-employed workers or even home-based workers and other vulnerable groups in rural areas are not covered under social security benefits, to say the least. So this would enable companies to introduce arbitrary service conditions for their workers, which

would otherwise be detrimental for the entire workforce. We also understand that there is non-inclusion of charitable or non-profit based establishment. Let's say code on occupational safety, health and working conditions does not include charitable or non-profit based establishments. In fact, there is no central legislation which lays down the law governing charity or charitable organizations in India.

Also we see that there is no recognition for invisible labor invisible labor is the part that goes unnoticed and unrecognized and unfortunately it is unregulated so generally if we speak about Unpaid worker is called as or unpaid work is called as invisible labor. So childcare, household work, looking after the elderly are some of the critical examples of unpaid work and they constitute invisible labor. So if you look into people who are engrossed in household work, who are engrossed in looking after the elderly or the childcare, they are actually not coming into the actual workforce necessarily. And they are being termed as invisible workforce.

A majority of invisible workers are women. And that is unfortunate. And they have the most tedious work schedules with, you know, to be frank, no weekends off, no working hours, no vacations, no recognitions. And these are all thankless jobs. So with the introduction of the four new codes, none of the new codes talk about this invisible labor.

Invisible labor has a more tedious work profile with, as I mentioned, a lot of thankless possibilities. So please note, these are some of the critical uncertainties or problems or challenges that are still persistent, are still existing with the particular law. So what we have seen is that we have seen that there has been an attempt to synchronize Certain laws which we feel are archaic, which are obsolete, which are not adequate at this point in time. Why not adequate?

We have seen that, you know, there is changing work environment. There are changing work contracts. Some of the laws which are not adequate. applicable at this point in time. They are obsolete.

They are not practical. Sometimes you look into the wage figures. Sometimes you look into the bonus figures or incentives. They are not in tandem. They are not considering the inflation and the existing purchasing power of individuals at this point in time.

There are also critically, you know, the issues with respect to the obsolescence or, you know, the archaic nature of the law, because, you know, they feel that some industries themselves do not exist at this point in time, which were there otherwise. So there is need for this combined, you know, revamp of the labor laws. The government has looked into it. They have combined certain critical laws and made codes. They have tried to amalgamate in different dimensions.

But please note, there are certain inherent inconsistencies which we have seen. There are a lot of positives, but there are some negatives also. We will look into both these aspects. My intention today as a part of this first lecture of the last module was to introduce the need for this actual labor code.

Why we need it? What is the purpose for this? What does it try to achieve? So I hope those are the key takeaways in this particular class. Thank you for listening to me patiently.

See you in the next class. Till then, take care. Bye-bye. Amen.