

Course Name: Labour Welfare and Industrial Relations

Professor Name: Prof. Dr. Abraham Cyril Issac

Department Name: School of Business

Indian Institute of Technology Guwahati

Week:12

Lecture: 55

Lec 55: Occupational Safety, Health and Working Conditions Code, 2020

Hello learners welcome back to the course on labor welfare and industrial relations we move to the third lecture of the last module where we look into the occupational safety health and working conditions code and 2020. So over this, the entire module, we have tried to look into the updates, the updates, which I promised in my introduction video, the updates concerning what or where are we specifically with respect to the labor welfare laws, labor welfare acts, regulatory frameworks, etc. Today, we look into one of the most critical and one of the most important and significant act, which is or the code, which is the Occupational Safety, Health and Working Conditions Code 2020.

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

Now, when you look into the specific occupational safety, we have to understand there are certain standards like we have the ISO standard, we have OSHA similarly. So I'm not going into that specifically, but let's look into the OSH code. What is this occupational safety? What is this health and safety?

What is this working condition safety? And then we'll try to develop it in a code 2020. So let's look into that in greater detail. When you look into this particular act, the occupational safety, health and working conditions specifically, we'll see that the act is there to consolidate and amend the laws relating to the occupational safety, occupational health and working conditions of the persons employed in an establishment and for

matters connected therewith or incidental thereto. This is what the Gazette of India tells us.

Let's understand this. The occupational safety health and working conditions code 2020 is nothing but it is a code to consolidate and amend the laws regulating to the occupational safety and health and working conditions of the person employed in an establishment. So when you talk about the code, the code consolidates 13 acts. Please note this. The code consolidates 13 acts . Regulating health safety and working conditions. So these laws cover typically factories, mines, dock workers, building and construction workers, plantation laborer, contract labor, interstate migrant laborers or workers, working journalists are also part of it. Motor transport workers, sales promotion employees and even cine workers are part of this particular act, which looks into the occupational safety, health and working condition. So you can understand that there are certain clear-cut relation when it comes to construction workers and safety. All the safety standards, etc.

are actually a part of it. If you look into typically construction work or if you typically look into somebody who is associated with labor work. There are issues of safety and if you have seen a plant or let us say a mine or a working site, you will see that there are certain green helmets. They are safety officers. They are part and parcel of the safety conditions who advocate for occupational safety, health, etc.,

So all these aspects are critical in construction, in mine, in all such labor intensive industries. But when it comes to certain important aspects like, let's say, the sales promotion. cine workers there the need for you know occupational safety was not that much or at least it was not understood that clearly now things have emerged things have changed and with this change we see that there is more of occupational safety more of occupational health standards coming in and this is what is or what makes this this OSH code 2020 all the more critical let's look into that in greater detail Now, when you look into the OSH code specifically, we'll see that the Occupational Safety, Health and Working Conditions Code, it shall not apply to the offices of the central government, offices of the state government and any ship of war of any nationality but the code shall apply in case of contract labor employed through contractor in these offices so this is what the first case and also the exemption part

The 2020 bill if you see, Includes all establishments where any hazardous activity is carried out regardless of the number of workers. The code specifically is applicable to establishments employing at least 10 workers. It applies to mines and docks, even in case there is one worker. So the code fixes the daily work hour limit to a maximum of eight hours. And even the code does not apply to apprentices under the Apprentice Act.

So this we have specifically seen in our previous lecture. And if you look into other factors, if we see it defines an interstate migrant. Because this is something which is becoming very significant these days. Interstate migrant worker, especially with respect to more of a better working remuneration. People are migrating across states within the country.

And this has become the need of our naturally understanding, acknowledging this fact. And while you acknowledge, you have to understand what or who is actually an interstate migrant. So it defines an interstate migrant worker as someone who, who has come on his or her own from one state and received employment in another state and earns up to rupees 18,000 per month. So that is the condition that has been put on to qualify somebody as an interstate migrant worker.

This particular act or such code specifically empowers women to be employed in all kinds of establishments and at night between 7 p.m. and 6 a.m. subject to their consent and safety. Also, if you note, the OSH code removes the manpower limit on Hazardous working conditions and makes the application of the code obligatory. For contractors recruiting 50 or more workers earlier, if you note, it was only 20.

So it has increased the ambit of the court specifically. And finally, the constitution of a national occupational safety and health advisory board, national advisory board by the central government, which shall be empowered to advise the central government. Please note that. It ensures that no charge is levied on any employee for maintenance of safety and health at the workplace, including the conduct of medical examination and investigation for the purpose of detecting occupational disease. So comprehensively, there are some critical positive features associated with the OSH code.

No doubt about it. Now when you look into the most significant factor any particular lecture if you see the moment I try to introduce an act or a code or a framework or a law I try to bring up the definition part. Now here also there are certain important definitions. What do you understand by an employer? Employer is a person employed by an establishment on wages and is required to do any skilled, unskilled, manual, operational, supervisory, or even to a certain extent, let's say, administrative or managerial posts or technical or clerical or other work for that matter.

If you look into employer, Specifically, a person who employs, whether directly or through any person or on behalf of an establishment, is called as an employer. So the person, the authority who has the ultimate control over the establishment is the employer. Now, when you look into this act, we also see that there has been some definitions associated with contract labor.

Contract labor is a worker deemed to be employed in in connection with an establishment through a contractor without having the knowledge of the principal employer and that is who is a contract labor as per the OSH code now we also have some critical definitions of establishment of the hazardous process etc let's look into what do you understand by establishment under this code Any place with 10 or more workers where in any industry, trade, business, manufacturing or occupation is carried on. It could be, let's say, a motor transport undertaking, newspaper establishments, audio video production. building another construction work or plantation with 10 or more workers. It could be a factory in which 10 or more workers are employed or it could be even a mine or port or vicinity of the port where dock work is carried out.

So this is what do you mean by establishment in the code. And what is or what do you mean by hazardous process on this code? A hazardous process is any activity that In relation to specific industries where a raw, intermediate, finished byproducts, etc., if not taken care of, may actually cause impairment to the health of the concerned person or even harm the environment and cause the pollution. So these are some of the critical definitions concerning pollution.

The particular act or particular code for that matter it categorically defines who is an employee who is an employer what do you mean by an establishment what do you mean by contract labor and what do you mean by hazardous process now let's look into adaptation. to the definitions how the code has adapted to the definitions so specifically if you see the code expands the definition of a factory as a premise where at least 20 workers work for a process with power and 40 workers for a process without power so this is what do you understand by a factory when you look into the definition of family Family when used in relation to worker means spouse. It could mean children including adopted children of the worker who are dependent upon him and have not completed the age of 18 years and parents, grandparents, widowed daughter and widowed sister. It will also include dependent upon such worker definition of family extended to include dependent grandparents of the worker definition of cine worker who got modified to include all the audio visual works and even journalists who are working in electronic media specifically who got included in the definition of working family.

journalists so please note these are some of the critical criteria definitions that that come in our way when we actually look into the code and certain adaptations to the definitions now let's look into Health, safety and working conditions specifically. When you look into the health, safety and working conditions specifically, what we understand is that the central government may prescribe for providing all or any of the following matters in the establishment or class of establishments. It could be, let's say, the first and the foremost thing, cleanliness and hygiene. There should not be any discussion because this should be the most important aspect.

The second could be with respect to ventilation, temperature and humidity. Proper ventilation, proper working. We are looking into the working conditions specifically. We need to have proper understanding and availability of ventilation, temperature and humidity in the working space. The environment free from dust, noxious gas or fumes and other impurities would be there.

Portable drinking water should be in need. There should be adequate lighting that should be there in the working condition and also sufficient arrangement for urinal accommodation to male, female and transgender employees separately and maintaining

hygiene therein. There should be also effective arrangements for treatment of waste, effluence, etc. These are some of the critical health safety and working conditions provisions.

We also see that there should be arrangements without prejudice to the generality of power conferred under subsection 1. The central government may actually have certain issues with respect to or certain rules with respect to adequate standards to prevent overcrowding and to provide sufficient space to employees or other persons as the case may be employed therein. Or there might be, let's say, effective arrangements for treatments of waste and effluence, which we have already seen. Or there might be some some critical aspects related to arrangements where whatever the central government thinks that it is appropriate, it should it should or it can bring it. So it is not an exhaustive list.

There are certain factors which also can find, you know, inclusion when or as on the government decides to include. them when you look into the provisions related to establishments covered by the code are required to register within 60 days of the commencement with registering officers appointed by the central or the state government so electronic registration through we have the shrums with a portal the shrums with a portal you can actually register and the certificate of registration will be issued within the seven days The employer shall inform the closing of the establishment within 30 days to the registering officer and certify payment of all dues. And further, if you see some establishments, let's say such as factories or mines and those hiring workers, such as let's say even BD or cigar workers may actually be required to obtain licenses to operate in that particular area. So these are some of the critical aspects when you look into the establishment scenario or the establishment aspect.

When you have a careful reading of the code, you'll also see that there are some other provisions. Benefits for interstate migrant workers, which I've already mentioned. The 2020 bill, if you go through it, provides for certain benefits for interstate migrant workers. And this includes option to avail the benefits of the public distribution system, PDS. either in the native state or the state of employment this is vital not in the native state they can also you know make use of that in the state of employment because most of

the time they spend their time in the in the state of employment and hardly they go to the native state

Availability of benefits are available under the building and other construction SES fund in the state of employment and even insurance and PF benefits available to other workers in the same establishment. When you look at the database for interstate migrant workers, the 2020 bill requires the central and the state governments to maintain or record the details of interstate migrant workers in a portal. So an interstate migrant worker can register himself on the portal on the basis of a self-declaration and other. So this is one of the clear progress that that our government authorities have made the database for interstate migrant workers. We also see that there is the initiation of a Social Security Fund.

The 2020 bill provides for establishment of social security fund for the welfare of unorganized workers the amount collected from certain penalties under the code including the amount collected through compounding will be credited to that particular fund so what we understand the government may prescribe other sources as well for transferring money to the fund and finally if you see that there is a displacement elements which i have already talked about in the previous discussion The 2019 bill required contractors to pay a displacement allowance to interstate migrant workers at the time of the recruitment, which was, I think, equivalent to 50 percent of the monthly wages. So the 2020 bill removes this provision. So this is something which is fundamentally beneficial or rewarding or maybe encouraging for the employer as well. When you look into the duties of employer, employees and typically consultants, we see that specifically let's look into the duties of employer and employee with respect to the code and then we'll come to the duties of employees and consultants specifically.

When you look into the duties of employer, we see that it is all about providing a workplace that is free from hazard. It's all about providing free annual health checkup. It is the competent authority to issue appointment letters to employees. There to inform relevant authorities in case an accident at the workplace leads to, let's say, death or serious bodily injury of an employee. Also, there are some additional duties that are

prescribed for employees and factories, mines, docks, plantations and building and construction works.

When you specifically look into the duty of employee. It is all about taking care of their own health and safety, complying with the safety and health standards and reporting unsafe working or work incidents to the inspector. Now, these are also called as a critical incident. So this is something which is vital when it comes to the duties of employees. When you talk about the duties of consultants, we have manufacturers, we have importers, designers, suppliers who must ensure that any article created or provided by them for the use in an establishment is and should provide information on its safe handling. And if you look into other professional people like architects or engineers and designers, they must ensure that the safety of structures is there that is designed by them. Now, when you look into the duties, we have to also understand the rights of employees under the OSH 2020. Every employee has the following right under this code. The first one is it is the right of the employee to ask the employer about the information related to the employee's health and safety and inquire about the provision for the protection of employee's safety or health in connection with the work activity in the workplace.

In case of, let's say, any threat is there, any apprehension of a serious injury or danger to life is there. Employee may bring it to the notice of the employer and inspection come facilitator. So, in case... Let's say, as mentioned above, the employer shall immediately raise a complaint against the same in a manner prescribed by the government. So if the employer is not satisfied with the existence of any imminent danger as apprehended by his or her employees, he or she can refer the matter to the inspector, come facilitator whose decision shall be final in this particular case. So these are some of the rights of employees. So what we understand with the detailed discussion is that there are typical courts that have subsumed, that have amalgamated a lot of laws and it has given more teeth and more strength to that particular law. There are certain duties, there are certain rights that have also been listed out. But one thing I would like to mention here is when you look into the duties and me personally being a person from industry, I have seen that, you know, most of the time, and this is not about patronizing the employer, but most of the time we have adequate laws in place.

But many a time the employee says, take unwarranted risk. The workers take unwarranted risk and they fail to actually report the work incidents. If you have noted, I have tried to stress that point. The duty of the employee is actually if there is some work hazard, there is some occupational hazard, you have to point it out to the employer.

Most of the time it goes unnoticed and you being a person who knows it very well is not apprising the situation. So please note, We cannot blame the employer totally here. In those situations where there is a critical incident, there are certain incidents which qualifies a critical incident. There is some critical incident or at least you feel that there are some occupational hazards.

Please understand that it is your prerogative. You have to take. Honest is on you. You have to actually tell that, OK, this is a critical incident. This could be a potential hazard.

This could be a potential occupational hazard. It might be with respect to a sling in a crane or it might be something which is, you know, more damaging. It can cause, you know, threats to life or threats to our permanent disability, etc. So it is the duty of the employer to actually apprise if the employer is knowledgeable about that and still the employer is not acting on it the law will take its turn but if the employer is not aware of it and the things go down south then it is a problem that you have created as an employee as a worker and this is what vital when you discuss the OSH code OSH code typically you know is a very important and fruitful code it has given most of the provisions which is actually the need of the hour but please note,

If it is not used in a prompt and effective manner, this may also be futile in the long run. Thank you for listening to me patiently. We'll have greater discussions in the coming lecture. Till then, take care. Bye-bye.