# New Labour Codes of India Professor K. D. Raju Rajiv Gandhi School of Intellectual Property Law Indian Institute of Technology, Kharagpur Lecture: 01 Introduction

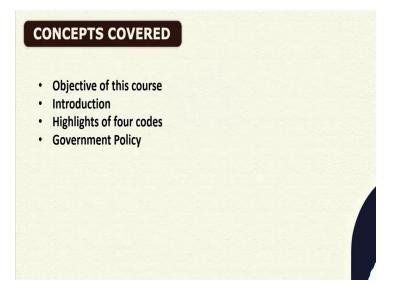
Dear students, at this time we are offering the course on the New Labour Codes of India. The background of this particular course to be offered is that the government come out with four new labour codes. And the first one is already notified. And we are waiting for notification of the other three, which were made a little bit late due to the pandemic.

So, labour empowerment is very important for the workers in this country. For the last 74 years, many governments were trying to improve, trying to repeal, trying to amend all the laws relating to workmen rather we would say that labour laws are many times amended and many provisions included. And the complete repeal of the labour legislation was on the card for many governments after independence.

So, it means last 74 years, the government from time to time come out with various provisions and mostly our labour legislations are British-made. We are simply following or we simply omitted some of the provisions. But the complete repeal of these provisions is path-breaking, it is completely going to change the entire scenario of labour legislation as well as the ease of doing business in India.

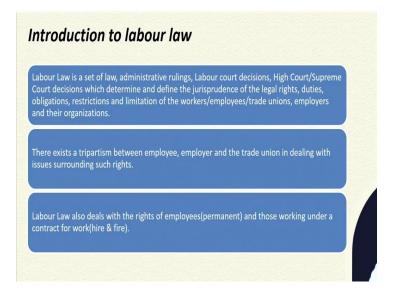


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So, we saw that for the first time the government is decided to provide complete Social Security irrespective of the organized or unorganized sector to all workers in the country. So, we were waiting for this to happen probably after the independence of more than 70-74 years. So, clearly, we are starting the objective of this particular class to give you an idea about the objective of the course and also a background or introduction or highlights of these four codes.

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And we know that these particular legislations are mostly from time immemorial period labour legislations there are in the country. The Britishers made these laws, to benefit them. Especially most of the legislation was to benefit the industry. And some of them were for benefit of the workers. So, there is a set of laws, exactly. The present government has codified or repealed 39 legislations into four codes. If you look into the objective of any labour legislation, labour legislation, the objective is very clear, mostly I would say that it is the labour welfare rather than workers' welfare.

And we can say that the complete set of rules, whether it is in the factories, industries, relating to social security, relating wages or relating to health and occupational diseases, are the welfare laws, which are already made in the country. But elaborate provisions are included in the new code.

After independence, most of the legislations are made in favour of the industry, because the successive governments through the five-year plans, want the industries to grow in India. So, we can say that the two schools of thought, so the scholar says that some of them are definitely in favour of workers, but most of them are in favour of our industry, but it is not actually the case.

So, balancing these rights and duties or we can say that the social security measures for workers are going on for this particular period. So, in most cases in India, the tri-party, so, the employer, employee and the government are side by side working for the welfare of workers. So, we know that from the British time itself, the trade unions, trade unions are formed, and the freedom to form trade unions are allowed under the Trade Unions Act of 1926. So, that a legally recognized union can work for the labour. So, they are free to have the bargaining power, the collective bargaining power is with the labour unions.

So, basically, the labour law makes a balance between the rights of employers and employees, these are including permanent workers or we call it organized sector, unorganized sector, contract workers, then in legal terms or legal parlance, we call it them for hire or so, now new the slogan is "hire and fire".

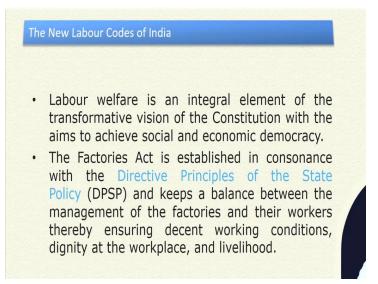
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So, through these particular codes, we will see, what is really the objective of these new codes, what was the objective of amending the existing laws. So, basically, labour law provides a framework, a framework of rules and regulations for employers, workers, their representatives like trade unions, and those who are related to the industry, the working industries and industry relation is one of the important factors in the workplace. So, if there is no working environment, in the industry, so, it is going to severely affect the economy of the country. So, it is very necessary that there must be a labour-friendly environment in the country.

And we know that most of the rights are embedded in our constitution, in the form of fundamental rights, Directive principles and other labour legislations. So, basically, labour laws, establish legal systems, rules, and regulations for employees as well as employees to keep a productive workplace environment.

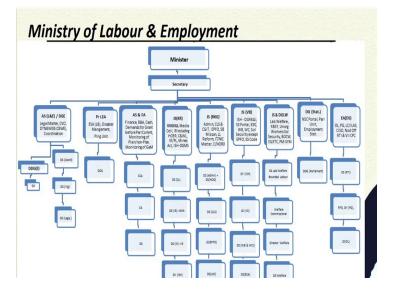
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So, if we look into the new codes, we know that the new codes are directed towards the "Atmanirbhar" of workmen. This is the Prime Minister's words. So, labour welfare is an integrated element of the constitution of any democracy, that is, especially in India, the largest democracy in the world, since the opening up of our economy in 1991, mostly, the industry is asking for amendments to these labour legislations. But we have a very strong setup of labour laws, even prior to 1991 in the country.

So, for example, some of the legislations are very old and amended in 1948 like the Factories Act, which clearly gives the complete management of factories in the country for factories and the workers in the country, their working conditions and the workplace hygiene and workplace dignity, livelihood and the duties of employees, what are the benefits, health, occupation, etc. So, Directive Principles of State Policy elaborately talks about it.

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In the coming classes, we will deal with the Directive Principles elaborately. When we look into the administrative system, we have the Ministry of Labour and Employment and also many wings, one of the largest ministries in the central government and the workforce working for the welfare of workers in this country. So, simply you can see what are the branches, the various branches of the Indian Ministry.

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# Constitutional Provisions relating to Labour Law

Under the Constitution of India, Labour is a subject in the **Concurrent List** o Central & State Governments are competent to enact legislation subject t being reserved for the Centre.

Union List	Entry
Entry No. 55	Regulation of labour and safety in mines and oil fields
Entry No. 61	Industrial disputes concerning Union employees
Entry No. 65	Union agencies and institutions for (a) "professional, vocational or technical training"
Concurrent List	Entry
Entry No. 22	Trade Unions; industrial and labour disputes.
Entry No. 23	Social Security and social insurance: employment and

Entry No. 23 Social Security and social insurance: employment and

And under the Ministry, you can see that they manage and they administer the labour laws in this particular country. As such labour is in the concurrent list of the Indian constitution, the state governments and the central government have the authority to legislate upon the particular matter of labour, that labour reforms. So, especially in the union list says entry number 55, so, specifically dealing with mines, oil fields and mine safety.

Entry number 61, talks about the industry disputes concerning union employees. The industrial disputes act 1947 is one of the important legislation in post-independent India for the resolution of all disputes, entry number 65, union agencies and institutions for professional vocational or technical training. So, this is exclusively what you can see in the union list.

In the concurrent list, we have trade unions, industrial and labour disputes. So, state governments are an important component of administrating the trade unions act, industrial disputes act, factories act, etc. And entry number 23, deals with social security, social insurance, employment and unemployment.

We can see that the earlier registrations of provisions for provident fund, provisions for ESI under these particular heads, so, the ESI is exclusively managed by the State governments with the help of the central government. Entry number 24 talks about the welfare of labour including conditions of work, provident funds, employee liability, workmen compensation and other pension schemes, maternity benefits, etc. So, these legislations are also managed by it. In the concurrent list both the states both the state and central are empowered to make laws on these particular subjects.

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# Classification of Legislations Labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement. Labour laws enacted by Central Government and enforced both by Central and State Governments. Labour laws enacted by Central Government and enforced by the State Governments. Labour laws enacted and enforced by the various State Governments which apply to respective States.

So, if you look into the legislation, you can see that the labour laws completely enacted by the central government, it is the sole responsibility of enforcement is with the central government. And labour laws are enacted by the central government, but enforced by central as well as state governments. The third category is the labour laws enacted by the central government and enforced by the state government. And fourth is labour laws enacted and enforced by various state governments, which applied to the respective states, we can find state-specific legislation as well.

So, for example, earlier, the construction workers, the law relating to construction workers are confined to some of the states and later, the central government enacted the law. And now there are elaborate provisions in the new codes.

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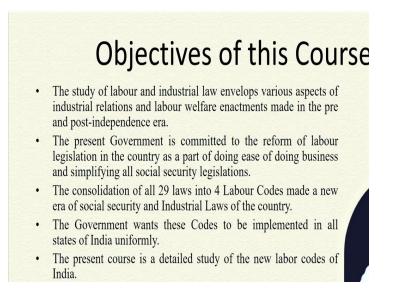
# Constitutional Provisions relating to Labour Law Part III of the Constitution of India deals with the fundamental rights, and are releval the dignity of human labour: 15. Prohibition of discrimination on grounds of religion, race, caste, sex or p of birth. 16. Equality of opportunity in matters of public employment. 19. Protection of certain rights regarding freedom of speech, etc. 21. Protection of life and personal liberty. 23. Prohibition of traffic in human beings and forced labour. 24. Prohibition of employment of children in factories, etc. 32. Remedies for enforcement of rights conferred by this Part. Constitutional Provisions relating to Labour Law Part IV of the Constitution of India deals with Directive Principles of State Policy: 39. Certain principles of policy to be followed by the State. 41. Right to work, to education and to public assistance in certain cases. 42. Provision for just and humane conditions of work and maternity relief. 43. Living wage, etc., for workers. 43A. Participation of workers in management of industries. 47. Duty of the State to raise the level of nutrition and the standard of live to improve public health.

And if you look into the other, parts of the constitution, part three, specifically, deals with Fundamental rights. So, Fundamental rights, provides prohibition of discrimination based on religion, caste, sex, or place of birth. Equality of opportunity, in the matters of employment, protection of rights regarding freedom of speech, protection of life and personal liberty, and prohibition of trafficking human beings and forced labour, prohibition of employment of children in factories, then the enforcement of rights, especially under this particular part, part three of the constitution the fundamental rights.

And also we can see that part four of the Constitution, the Directive Principles of state policy, very clearly says that certain principles and policies are to be followed by the state when they are enacting labour legislation, right to work, to education and to public assistance, provisions for just and humane conditions of work and maternity relief, living wages for workers and also the participation of workers in the management of industries. So, the Tripartite System is a part of this particular objective, then duty to, duty of the state to raise the level of nutrition and standard of living to improve public health.

So, part three and part four of the Indian Constitution give the mandate to various legislations, which were enacted by the different governments later.

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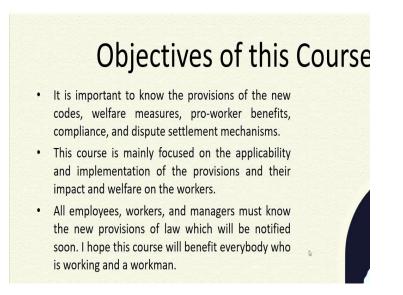


So, when we come to this particular course, the objective of the course is very clear. So, I would say that each and every worker in this country or employee in this country must know these particular provisions or various aspects of industrial relations, labour welfare enactments and especially pre-independent and post-independent India. And I would say that the pre-codes and the post-codes, so, now, the new four codes are going to be enforced fully. So, the present government, as we said they are committed to reducing ease of business and

simplifying the social security legislation, which they were talking about this particular objective from the last government.

So, ultimately, the consolidation of these 29 laws happened into four labour codes. So, this is going to be path-breaking or you can say that an innovative initiation of the present government in the industry laws of the country, the long-lasting impact, not only on the economy but at the same time on the welfare of organized and unorganized workers. So, the government has already started indention to implementation all over the country, including Jammu and Kashmir. So, the present course is a detailed study of all the labour codes or four labour codes, and it is going to be implemented in the country.

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And it is very important, it is very important to know, each and every worker on not only their rights, their duties, the employer, what are the provisions, what are their duties and what are their rights and what are the regulations, what are the benefits available to the workers and also most importantly, the dispute settlement system which is provided in the new codes. So, the focus of this particular course is the applicability and implementation of the provisions and their impacts and its welfare measures on the workers.

So, I would say that all workers, all employees, managers, must know the provisions of these new codes I am very sure that all these classes of people are going to be benefited. So, these particular codes are enacted by the government with the vision of the honourable Prime Minister, minimum government, maximum governance. So, this slogan is as part of we can see from the part of the "Atmanirbhar Bharat". So, the Prime Minister has very clearly said so "Sabka Sath Sabka Vikas aur Sabka Vishwas". So, these are some of the slogans, now, it is very soundly. So, hearing in this particular country, that is why these labour legislations are consolidated into four labour codes.

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So, India has improved, it is these reforms are improved to reach the Indian position on "ease of doing business" and the four labour codes completely ended the Inspector Raj system. So, the labour inspectors are not to be future facilitators, they are not only inspectors they are facilitators, so, their role is completely changed.

So, every government wants to do something for the unorganized sector, which constitutes around 90 percent of the workforce in this country. And the government estimates that they are constituted 40 crore workers in this country in the unorganized sector. This is the first time that the present government is thinking of providing all benefits which are available to the organized sector to the unorganized sector as well. That means, there is no discrimination between the benefits under these four codes to the organized sector and the unorganized sector.

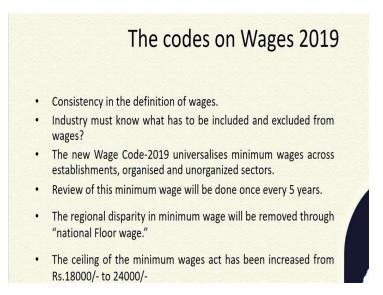
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# 4 codes

- 1. The codes on Wages 2019
- 1. The Payment of Wages Act, 1936
- 2. The Minimum Wages Act, 1948
- 3. The Payment of Bonus Act, 1965
- 4. The Equal Remuneration Act, 1976

So, if you will come to the four codes, especially, the first code is the wages code, the code on Wages 2019. This first code is already notified and this is enforced into law. So, this is the law. The present law is the code on wages, which actually contains the four earlier legislations. The name itself says the code on wages, the payment of wages act 1936, the minimum wages act 1948, the payment of bonus act 1965, and the Equal Remuneration act 1976. These four codes are repealed into the codes on wages.

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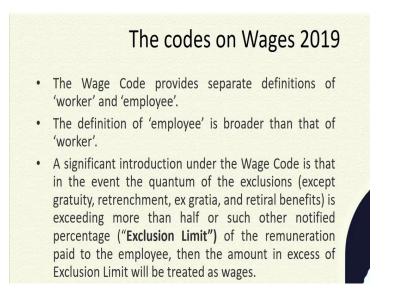


So, if you look into this particular code, you can see that there is a consistent definition of wages, which is given in the code and also the industry must know what is included in the wages and what is excluded in the wages. Now, the new wage code universalizes the

minimum wage across the establishments, organized and unorganized sectors and also provided for a review of the minimum wages every five years. So, especially one of the provisions included in the wage code is in order to completely remove the disparity, regional disparity presently. The state governments are deciding the minimum wages.

So, there is a lot of disparity among the states on minimum wages. So, the code wants to remove this disparity and wants to put a national floor wage, where the state governments would not be able to fix the minimum wages below the national floor wage and the ceiling of the minimum wages has been increased from 18,000 to 24,000 even much before notifying this particular code. So, the ceiling also has been increased.

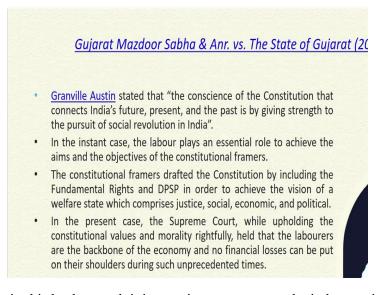
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And also you can see that the wage code provides separate definitions for worker and employee and the employee has a wide connotation which includes each and every working people. At the same time, you can see that it fixes certain exclusion limits also. So, the remuneration is now paid by the companies. So, we can see that the corporate sector says that this has an implication and an exclusion limit is put on the minimum wages. So, usually, the companies give a very low show, they show that minimum wages or minimum wages as the basic wage and they give us more of other allowances.

Now, the companies would not be able to give too many allowances exceeding the exclusion limit that is fixed as 50 percent. So, the excess exclusion limit will be treated as wages. So, there will be more contributions towards the Social Security legislation like the provident fund.

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So, again, wages in this background, it is very important to see the judgment in this particular case, the Gujarat Mazdoor Sabha & Anr. vs. the State of Gujarat. The decision is on the background of the pandemic. Can you put the complete burden of the lockdown around for a period of two years on the workers? So, quoting, Granville Austen, it states that the conscience of the Constitution that connects India's future, present and past is by giving strength to the pursuit of social revolution in India. It compelled the court to say this because there was the overtime working has put on the workers.

And the particular notification of the government says that the workers are eligible to get the overtime wages in accordance with their proportionate to their salary, rather than the law which existing than doubled the salary. So, the Supreme Court clearly upholds the constitutional values and morality but clearly says what is fundamental which is clearly pointing out the Directive Principles of state policy. So, the vision of a welfare state. So, the court says justice, social, economic and political upliftment looking into the workers, the workers' upliftment. The court said that the burden of the pandemic should not be put on the shoulders of workers.

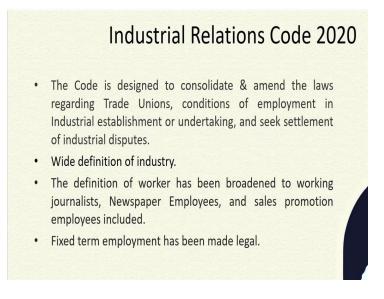
So, elaborately it says the economic security of workers during the pandemic to be enforced. So, this particular judgment also has an impact on in future also, so, no exploitation of workers, no exploitation of workers even during the pandemic time. So, there may be problems in the industry, which is beyond our control, but that burden cannot be put on the workers because our constitution or statutory provisions, the conditions and the exemptions, and the wages is in accordance with the Directive Principles of state policy to eliminate and for promoting dignity and equity in the workplace. So, the government cannot come out with notifications under some other law, like Disaster Management Act to overturn the provisions of the labour law.

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So, the second industrial code, the industrial relations code, which means three legislations, that is the Trade Unions Act, 1926 and Industrial Employment Standing Orders Act, 1946 and the Industrial Disputes Act of 1947.

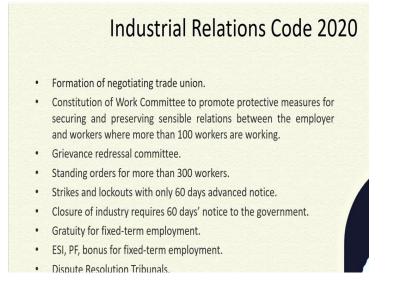
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This industrial relations code of 2020 consolidated completely the laws relating to the settlement of absolutely the settlement of industrial disputes. In the next class, we will see the new arrangements which are made online for the settlement of disputes by the government.

So, here are some of the new entrants, for example, the journalist and newspaper employees and sales promotion employees are within the purview of the industrial relations code. So, it is most importantly the industry was asking for a long period of time the fixed time employment which was made legal.

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So, this code, so, the formation of negotiating trade union. A single negotiating trade union for each and every industry will reduce the hassle between the employer and employee and also it provides for the grievance redressal committees also the standing orders are made compulsory for more than 300 workers. So, the numbers are increased.

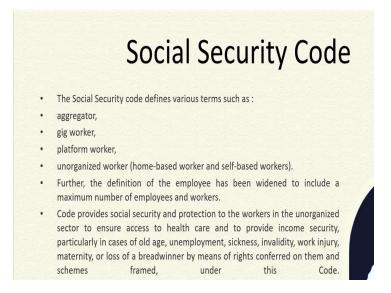
So, now for going for strikes and lockouts, 60 days advance notice is required and especially when the closure of industry is 60 days again notice to the government is also required. So, the gratuity is provided to even the fixed term employment and it is not only gratuity, it is ESI and provident fund bonus and almost all the benefits which are available to the organized sector are available to the unorganized sector as well.

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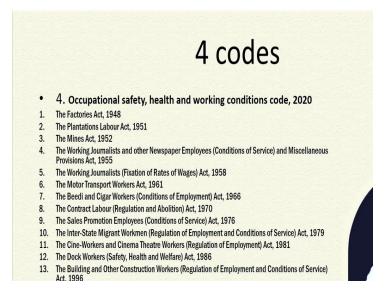
The third code is the Social Security Code. The Social Security Code consolidates nine legislations, that is the Employees Compensation Act, the Employee State Insurance Act, the Employees Provident Fund and Miscellaneous Provisions Act, the Employment Exchanges Act, the Maternity Benefit Act, the Payment of Gratuity Act, the Cine Workers Welfare Fund Act, the Building and Other Construction Welfare Cess Act 1996, the Unorganized Workers Social Security Act.

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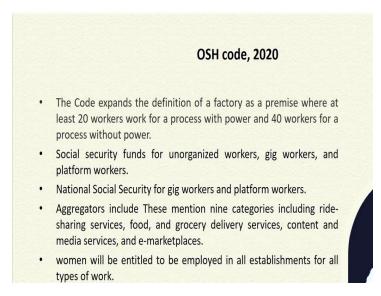
The nine legislations are consolidated under Social Security Code, and we can find some new definitions in this particular code we will deal elaborately with these definitions in the later classes.

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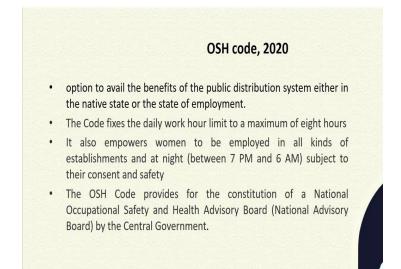
And the fourth code is the occupational safety and health and working conditions code, 2020. The single code this repealed 13 legislations relating to factories, plantations, mines, working journalist and motor transport workers, Beedi and Cigar workers, Contract Labour, Sales Promotion Employees, Inter-state Migrant Workers, Cine Workers, Dock Workers and Building and Other Construction Workers. So, all these legislations are consolidating the occupational safety and health code.

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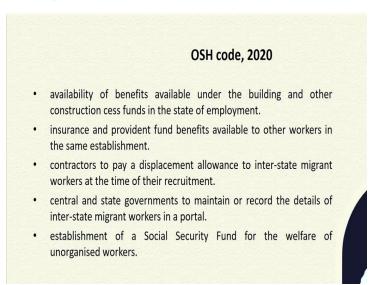
So, the code expanded the definition some of the definitions and also the applicability to, there is more number of workers who are working and the Social Security fund. A fund is organized under this particular code as known as the Social Security fund for the unorganized workers, gig workers and other platform workers and the National Social Security, Social Security is provided to these highly unorganized sectors as well. So, women are entitled to be employed in all establishments for all types of work. And special provisions are provided for inter-state migrant workers.

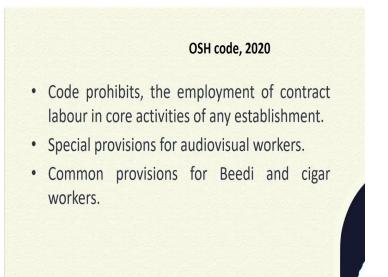
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And also special benefits like travel allowances are provided to the inter-state migrant workers for the first time in the country. And the code fixes the daily working hours limit to 8 hours. And also the Occupational Safety Code, provides for constitution of National Occupational Safety and Health Advisory boards as well.

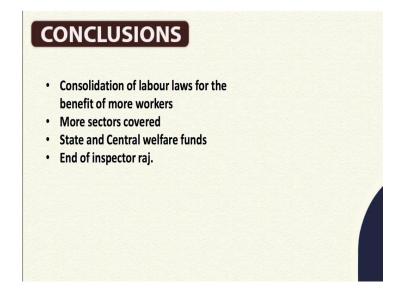
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So, these codes, elaborately deal with the factories, Social Security fund, the contractors, and also the other benefits which are available to the workmen. And the code prohibits the employment of contract labour in core activities of any establishment. So, special provisions for audiovisual workers, and common workers, the common provisions for Beedi and Cigar workers are provided.

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So, we can see that this particular code is going to change the labour scenario in the country. So, I am very sure that this course is going to be benefited all the workers in this country. Thank you.

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