

New Labour Codes of India
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Lecture 03
History of Labour Law in the Country

Dear students in this class we are going to look into the historical aspects of Indian labour movements and also the labour laws and what are the provisions which was provided before this particular codes were enacted in the country. So, we know that, from the British time onwards, there was a lot of struggle in various industries, especially, if we look into some of the industries like the mill industry, cotton industry and also which are more favourable to the Britishers at that point of time.

So, all the legislation is made in favour of Britishers. So, they want to run their factories, they want to run their industries, and also they want to export the raw materials to England, from India, at that particular point of time. For example, if you take the plantation industry, specifically the laws relating to the plantation industry are made for benefit of the Indian plantations run by the Britishers because they want to run these plantations, for example, tea plantations, especially in Assam, and other parts of the countries like Nilgiris.

So, they made these particular laws mainly in favour of the Britishers. So, we can see that the interior scenario at that point of time British time was mainly focused on more production, not labour welfare.

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CONCEPTS COVERED

- History of the Indian Labour Law

KEYWORDS

- Indian Labour Law

Historical Aspects

- 18th century India was not only a great agricultural country but a great manufacturing country also.
- History of British colonialism.
- 1760 - 1850 – Industrial revolution
- Protect British employers.
- Textile magnates of Manchester and Lancashire pressured for restrictions on Indian labours that made Indian textile more costly in the International market.

So, if we look into the historical aspects from the Indian perspective, so we can see that many legislations are actually made by the Britishers. At the same time, the struggle also started during the British time. So, we can see that India was not only an agricultural country, as well as it was a great manufacturing country as well. If we look into the exports in 1700, so we were contributing around 20 percent of the world trade at that point of time, that 20 percent become 0.5 percent by 1947.

So, the Britishers have done great harm to the Indian industry. So, British colonialism has completely entangled with the Indian labour history as well. So, various legislations enacted by the Britishers are in favour of their industries. So, if we look into the textile mills, these are the main industries which are run by the Britishers for exporting into England.

So, they do not want to pay sufficient wages to the employees, the working time was not regulated and the raw materials were completely exported to their country. So, as a cost minimum cost management, they have enacted labour laws. So, India was a supplier during Indian colonialism, the British period India was supplying raw materials to the international market, not the finished goods.

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Historical Aspects

- Factories Act 1883.
- Stipulation of eight(8) hours of work, the abolition of child labour, and the restriction of women in night employment, and the introduction of overtime wages for work beyond eight(8) hours.

So, this policy of the Britishers. And especially a lot of the struggle for regulating the working time in the Indian factories, the Factories Act was enacted in 1883. So, you can see that from 1883 onwards there was some kind of regulations of working, working hours, and the Britishers has come out with the abolition of child labour and restriction of women in night employment.

It is very historic that women's employment is restricted in the Factories Act 1883 onwards until the enactment of the new codes. The present new codes are again going to allow the woman workers to work in the night shifts from 7pm to 6am. So, we can see that it is not a question of one century or more than one century, so it is a question of the policy decision, that the governments take from time to time.

So, this is going to increase the productivity of some of the industries whether it is the IT industry or other industries where employment is required. And also the Factories Act 1883, provides the introduction of overtime wages, overtime wages beyond 8 hours. So, we know that the overtime wages are never heard, even the workers were working up to 12 hours or 15 hours per day. So, this particular act at that point of time is trying to regulate the working hours, especially at that point of time.

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Labour legislations in India

- In India, plantation in Assam was the first to attract legislative control.
- Recruitment to plantations.
- Number of legislations were passed from 1863 to regulate recruitments.
- Factories Act passed in 1881.
- Mines Act in 1901.
- These legislations were in support of employers.

And as I already said, the legislative control was also in the plantation sector, because these are some of the main export materials provided to the Britishers at that point of time. So, Assam which is known for the tea plantations, so these legislative controls into recruitment to plantations, the plantations are a hub of child labour, I will not say that it is the pre-independent India, even the post-independent India, the child labour is one of the highest among all industries in the plantation sector.

So, in 1863 there were a number of Acts were passed beyond 1863 and one of them was the Factories Act, and then we can find the mines site. So, the mines are one of the hazardous industries, where again, we can find a lot of employment in child labour. So, but this legislation, so, I was, again and again, saying that these legislations were in support of employees and giving more time, more working time, which is provided in this particular legislations, which is supportive of employers rather than employees.

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Trade Unionism in British India

- Ten major central union organisations of workers based on different political ideologies.
- Madras Labour Union 1918.
- The first central trade union organisation in India was the *All India Trade Union Congress* (AITUC) in 1920 - almost three decades before India won independence.
- At about the same time workers at the Buckingham and Carnatic Mills, Madras went on strike led by B P Wadia.
- The management brought a civil suit against the workers in the Madras High Court and not only obtained an injunction order against the strike but also succeeded in obtaining damages against the leader for 'inducing a breach of contract'.

So, these long working hours, the regulation of wages and other things are entangled together with the emergence of trade unionism in British India. So, you can see that the major trade union led to the passage of the factories act and later on also contributed to the Indian labour laws. So, but, if you look into the labour unions, that is a new class in British India.

So, the Madras labour union is very popular at that point of time. So, which was spearheading agitations in the spinning mills of Madras at that point of time. So, the Madras labour union is the first of its kind and then comes all other trade unions, the AITUC the All India Trade Union Congress, which was constituted in 1920.

So, you can see that and it still this particular union is there for their trade union Congress AITUC and like the even though it is some of the parts break up from this particular original union and from AITUC. And now, we can see that specifically some of the union leaders, they have to mention. So, the famous case of the agitations, the agitations spearheaded by some of the union leaders, like B P Wadia is commendable or has a special mention.

Because one of the first times that the codes at that point of time in Chennai have come out with judgments that the union leaders are responsible. They have not only given penal punishments but also to make compensated the employers if they have been going on a strike.

So, B P Wadia is one of the union leaders at that point of time spearheading some of the agitations in the Buckingham and Carnatic Mills. And the civil suit because the workers these legal proceedings were unknown to the workers at that point of time, a civil suit against workers for not only injunction and also obtaining damages for inducing breach of contract. So, these are the new developments at that point of time.

So, the union leaders were responsible for any kind of strike in an establishment in a factory. So, we can see that post-independent India said we have a lot of freedoms and which we have already seen in part three and part four of the constitution. So, these were curtailed during the British period of time.

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Constitution

- Royal Commission on Labour - 1929.
- Article 39 and 39-A of Indian Constitution.
- A.41- right to work
- A.42 – maternity relief
- A.43 – social opportunities.
- A.43-A – Secure participation of workers in the management.

So, successively, we can see that the Royal Commission on labour was appointed in 1929. So, they started working on various labour issues and almost the same period of time. So, you can see the Indian Constitution, drafting of the Indian Constitution at that point of time. Similar provisions, we can find in the present constitution, so the right to work, maternity relief, so other opportunities, secure participation of workers management, all these provisions, the ILO also working at that point of time. So, similar provisions which you can find basically worked by the ILO.

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Various social legislations

- This was followed by widespread protests that finally yielded in the Trade Union Act 1926 giving immunity to the trade unions against certain forms of civil and criminal action.
- The Trade Union Act facilitates unionisation both in the organised and the unorganised sectors.
- For the unorganised sector the most useful instrument is the Minimum Wages Act 1948.
- The Payment of Bonus Act provides for minimum bonus payable is 8.33 percent and the maximum is 20 percent of the annual wage.

So, the government wants to implement some of the provisions at the domestic level as well. So, the agitations various agitations in 1918 and 1920 which led to the enactment of the Trade Union Act in 1926. So, the Trade Union Act 1926 was continued in post-independent India as well, until recently, we repealed it with the new social code. So, the Trade Union Act was continued throughout.

So, these civil and criminal actions were banned under this particular code under the Trade Union Act, the trade union activities were made legal and also unionization was allowed under the Trade Union Act. So, you can see that this Trade Union Act made more empowered of the workers at that point of time.

So, if you take into the wages, there is more contribution from the Minimum Wages Act 1948, and the Payment of Bonus Act, so, we can see that the minimum bonus paid and still it is 8.33 percent, the minimum not the maximum. So, the minimum bonus which is provided to the workers also comes into place at that point of time.

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Various legislations

- Strike – Lockout
- ADR for collective bargaining
- Dispute settlement - Trade Disputes Act 1929, The Industrial Disputes Act 1947 (IDA).
- The Contract Labour (Prohibition and Regulation) Act 1970 provides a mechanism for registration of contractors (if more than twenty workers are engaged) and for the appointment of a Tripartite Advisory Board that investigates particular forms of contract labour, which if found to be engaged in areas requiring perennial work connected with the production process, then the Board could recommend its abolition.

So, and also, we can see that the trade unions, the advent of trade unions, the strikes, and lockouts all are made legally subject to certain conditions. So, the alternate dispute resolution systems have come as part of collective bargaining. Trade unions played an active role in collective bargaining. And the dispute settlement provisions were included in the Disputes Act, Trade Disputes Act of 1929.

And then, we enacted the Industrial Disputes Act 1947, again, which worked in post-independent India for more than 74 years and is again repealed by the new code. The Contract Labour Prohibition and Regulation Act of 1970 clearly regulate contract labour in the country.

So, you can see that there are special mechanisms, special restrictions, and special regulations provided for contract labour and what are the requirements of these contract labour as well as also you can see that what are the duties of the principal employer. So, these special provisions were provided in the contract labour Prohibition and Regulation Act of 1970.

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Labour and Industrial Jurisprudence

- *Laissez faire* to a welfare state.
- From Contract to status
- Master and servant to employer and employee
- Industrial legislations after independence
- Supreme court's contribution
- Delivering social justice
- V.V. Giri – Labour Minister in 1954
- Nanda Period – 1957 – Tripartism developed.

So, we can see the other areas of work which led to the *laissez-faire* concept of the welfare state. So, and also we can see the relationship between master-servant employer-employee has changed from time to time. So, especially the welfare legislations come up after independence. So, the Indian jurisprudence from post-independent India, the Supreme Court has come out with a number of judgments, labour friendly, labour favoured judgments. The contribution of the Supreme Court of India has to be mentioned specifically.

So, social justice is part of the motto of all these legislations. And the V.V. Giri Institute Labour Institute has been established in 1954 to study specifically labour issues. So, you can see that gradually we also adopted tripartism, which is proposed by ILO in post-independent India. So, that leads to more harmony between employers, employee and the government in the working field.

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Labour policies in India

- Worker's participation in management.
- Worker's education
- Minimum wages
- 1958 – code of discipline in industry.
- Payment of Bonus Act, 1965
- Provision for social security
- ***Tripartite consultation***
- Industrial peace and harmony
- Industrial relations

So, again we can see that the worker's participation in management was under the concept which is introduced for more harmony in the workplace. And also you can see that the court of display industry, the industrial standing orders, the welfare legislations like Payment of Bonus Act, which was passed for the Social Security, more social security.

The consultation process and industrial peace and harmony, industrial relations, are all these in post-independent India throughout the 50s, 60s and 70s. And when it comes to the 80s, so, we can see a sizable number of legislations, which we have enacted for the welfare of workers.

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Objectives of labour legislations

- Social justice – equitable distribution of profits, protection to the workers against harmful effects.
- Workmen's Compensation Act, 1923, Minimum Wages Act, Factories Act.
- State of Mysore v. Workers of Gold Mines, AIR 1958 SC 923. J Gajendragadkar, [p. 8.]
- Social equity – Social duty – Social justice - Legal justice
- Social security
- The Universal Declaration of Human Rights

As I told you that social justice that is one of the prime objectives of labour laws. The Britishers pass the Workmen's Compensation Act in favour of if there is some accident happens. So, the workers are eligible for certain as you can say that certain benefits under the Workmen's Compensation Act.

So, some of the judgments are pathbreaking with regard to specific sectors like mines. So, you can see that social justice, social equity, social duty and also legal justice are mingled with the Social Security legislation. So, the Universal Declaration of Human Rights are very well talked about, we can say that the worker's rights. What are the worker's rights?

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Central Acts

1. Apprentices Act, 1961
2. The Bidi and Cigar Workers (Conditions of Employment) Act, 1966
3. Bonded Labour System (Abolition) Act, 1976
4. Child Labour (Prohibition & Regulation) Act, 1986
5. The Children (Pledging of Labour) Act, 1933
6. The Contract Labour (Regulation & Abolition) Act, 1970
7. The Employees Provident Funds and Misc. Provisions Act, 1952

Central Acts

8. Employees State Insurance Act, 1948
9. Employers Liability Act, 1938
10. Employment Exchange (Compulsory Notification of Vacancies) Act, 1959
11. Equal Remuneration Act, 1976
12. Workmen's Compensation Act, 1923
13. The Industrial Disputes Act
14. The Industrial Employment (Standing Orders) Act, 1946

Central Acts

15. The Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
16. Labour Laws (Exemption from Furnishing Returns & Maintaining Registers by Certain Establishments) Act, 1988
17. Maternity Benefit Act, 1961
18. The Minimum Wages Act, 1948
19. The Payment of Bonus Act, 1965
20. The Payment of Gratuity Act, 1972

Central Acts

21. The Payment of Wages Act, 1936
22. The Sales Promotion Employees (Conditions of Service) Act, 1976
23. The Shops and Establishments Act, 1953
24. The Trade Union Act, 1926
25. Workmen's Compensation Act, 1923
26. The Weekly Holidays Act, 1942

And the enactments like the Apprentices Act, 1961, which made more skilled labour to the Indian industry. Specific sector legislations like the Bidi and Cigar Workers Conditions of Employment Act 1966 which uplift with specific social security benefits to the bidi and cigar workers.

And the bonded labour system, which was very much prevalent during the British period and post-independent India abolished by the bonded labour system abolition act of 1976. And India is one country with the largest number of child labour, this is the statics of ILO. So, India was forced to come out with legislation of Child Labour Prohibition or Regulation Act 1986, much

later, after independence, still, we have problems with the definition of “Child” in some of the legislation.

So, the new codes try to avoid this duplicity or multiplicity or confusion in the definition of child. So, and also the other, so, we can say that the social evils like Children Pledging of Labour Act of 1933, the pledging children in the case of and it is a part of bonded labour system, which is abolished.

So, social security legislation like the Employees Provident Fund Act 1952, and the ESI Act which was passed in the post-independent time. And other sizable numbers of legislations, which we can see that the Employees Liability Act. So, Equal Remuneration Act, Workmen's Compensation Act, Industrial Disputes Act, and Industrial Standing Employment Orders Act 1946, all these legislations can be considered as a part of the Social Security legislation in modern India.

So, other legislations which we passed at that point of time are completely in favour of workmen. So, all these are the long list, the long list of the legislations even to sectoral employees like sale Promotion Employees Act, Shops and Establishments Act or other legislation which deals with the sectoral employees.

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International Labour Organisation (ILO)

- Up until this day, India has ratified 39 International Labour Organisation (ILO) conventions of which 37 are in force.
- Of the ILO's eight fundamental conventions, India has ratified four :-
 - Forced Labour 1930,
 - Abolition of Forced Labour 1957,
 - Equal Remuneration 1951, and
 - Discrimination (employment and occupation) 1958.

So, as we already said, the International Labour Organization has worked towards this end, the Abolishment of Child Labour, Abolishing of Forced Labour, Equal Remuneration and Non-Discrimination Principles, so India also enacted successive legislations.

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The Factories Act, 1948 – 1881, 1934, 1948 and amendment in 1954

Objectives

- To ensure adequate safety measures and to promote the health and welfare of the workers employed in factories.
- To prevent haphazard growth of factories through the provisions related to the approval of plans before the creation of a factory.

From 1881 many times we omitted the Factories Act especially the more provisions were added in 1948. So, if you look into the Factories Act, it changed the objectives to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories.

So, this was a complete change from the British objective of what they made the factories and what they enacted the factories act. And also there are provisions included in the Factories Act to prevent or mitigate the haphazard growth of factories or the provisions relating to the approval of plans or certain basic standards to be complied with before constructing a particular factory.

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Scope and coverage

- Regulates working condition in factories.
- Basic minimum requirements for ensuring safety, health and welfare of workers.
- Applicable to all workers.
- Applicable to all factories using power and employing 10 or more workers, and if not using power, employing 20 or more workers on any day of the preceding 12 months.

And these Factories Act specifically regulates the working conditions in factories and basic minimum requirements of safety, health and welfare of workers are provided. And it is applicable to all factory workers. Using the power and non-using power, the only difference is the number of workers who are working.

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Main provisions

- Compulsory approval, licensing and registration of factories.
- Health measures.
- Safety measures.
- Welfare measures.
- Working hours.
- Employment of women and young persons.
- Annual leave provision.
- Accident and occupational diseases.
- Dangerous operations.
- Penalties.
- Obligations and rights of employees.

So, these provisions are applied uniformly to all factories and there must be compulsory approval of licenses. So, in certain cases, the compulsory registration of factories is provided such as standards of health measures, safety measures, welfare measures, and working hours, so

restrictions on the employment of women and in person are provided. So, annual leave with provisions is provided.

So, occupational diseases there are special provisions to deal with occupational diseases. So, the dangerous operations, specific and special provisions with regard to dangerous operations and non-complaints, and the penalties are provided. So, the obligations of employers and employees are specifically mentioned in the Factories Act.

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The Minimum Wages Act, 1948

Objectives:

- To determine the minimum wages in industry and trade where labour organisations are non-existent or ineffective.

Scope and coverage:

- Applicable to all employees engaged to do any work, skilled, unskilled manual or clerical, in a scheduled employment, including out-workers.
- Fixation of minimum wages.

So, when it comes to the Minimum Wages act 1948 is one of the amended provisions in post-independent India. It very clearly says the objectives to determine the minimum wages in industry and trade their labour organizations are non-existent or ineffective, it gives minimum wages to all workers.

So, the minimum wages are not fed by the central government in the scheduled employments of the central government and the state governments notify the minimum wages in the state schedules. So, this is applicable to all employees, those who are working skilled, non-skilled or semi-skilled workers in the scheduled employments. So, the fixation of minimum wages is also prescribed.

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Main provisions

- Fixation of minimum wage of employees.
- Hours of work per day.
- Procedure for fixing and revising minimum wages.
- Obligation of employees.
- Rights of workers.

So, hours of work per day are regulated. And there are special provisions with regard to fixing or revising the minimum wages from time to time. The obligation of employees, the right of workers and the duties of employees are also specifically mentioned.

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The Payment of Wages Act, 1936

Objectives

- To ensure regular and prompt payment of wages and to prevent the exploitation of a wage earner by prohibiting arbitrary fines and deductions from his wages.
- Application for payment of wages to persons employed in any factory.
- Not applicable to wages which average Rs 1600/- per month or more.
- Wages include all remuneration, bonus, or sums payable for termination of service, but do not include house rent reimbursement, light vehicle charges, medical expenses, TA, etc.

So, the Payment of Wages Act very clearly talks about the payment of wages or what is the intermittent level of payment of wages, whether it is weekly or it is quarterly or it is monthly wages to be paid. And deductions in wages are specifically prohibited or what are the eligible deductions are mentioned specifically mentioned in the Act.

So, and also, we can see that the minimum prescriptions minimum wages are also prescribed under this Act. So, and also very specifically defines what you mean by wage, what kind of remuneration is included, whether the bonus is included, whether additional working wages are included and the definition of wages.

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Main provisions

- Responsibility of the employer for payment of wages and fixing the wage period.
- Procedures and time period in wage payment.
- Payment of wages to discharged workers.
- Permissible deductions from wages.
- Nominations to be made by employees.
- Penalties for contravention of the Act.
- Equal remuneration for men and women.
- Obligations and rights of employers.
- Obligations and rights of employees.

So and main provisions, other provisions, which you can see the employees' liability to pay wages and also the period, procedures of wage payment is also prescribed. So, permissible directions are defined. So, the penalties for contravention of the provisions are mentioned. And India implemented Equal Remuneration for men and women in accordance with ILO conventions. So, these are mentioned under these particular provisions.

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The Employees Provident Funds and Misc. Provisions Act, 1952

Objectives

- To make provisions for the future of the industrial worker after he retires or for his dependents in the case of his early death.
- Compulsory Provident Fund
- Family Pension
- Deposit linked insurance

Scope and coverage

- Application to factories and establishments employing 20 or more persons.
- Can be made applicable by central government to establishments employing less than 20 persons or if the majority of employees agree.
- Excludes establishments employing 50 or more persons or 20 or more persons but less than 50 persons, until the expiry of three years in the case of the former, and five years in the case of the latter, from the date of setting up of establishment.
- Applicable to all persons who are employed directly or indirectly through contractors in any kind of work.

And when we come to the Employees Provident Funds Act, this is one of the important social security legislation implemented with contributions from employer and employee so that this will, this is going to help the workers after their retirement and within various provisions are provided for during their course of employment as well.

And it provides a scheme for family pension, deposit linked insurance scheme and it is applicable to a specified scheme of workers, specified number of workers those who are working in all the establishments, these are applicable to persons who are working directly or directly in the establishment or through the contractors in the establishment.

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Eligibility

- Employees drawing pay not exceeding Rs. 3500/- per month.
- Contribution: 12.5% by both employer and employee

So, the employees, so, you can see that these are the particular ceilings are revised from time to time and the contributions are from 10 to 12.5 percentage by employer and employee to this particular schemes.

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Benefits

- Apart from terminal disbursement of non-refundable withdrawals for Life Insurance Policies
- House building
- Medical treatment
- Marriage
- Higher education
- Family pension
- Retirement-cum-withdrawal benefits
- Deposit linked insurance Amount equal to the average balance in Provident Fund of deceased subject to a maximum of Rs. 25,000/- (\$559.79).

So, the benefits under these particular provisions include a series of we can say that series of benefits provided under this particular scheme. And like house building, medical treatment, schemes in marriage, higher education, family pension, retirement cum-withdrawal benefits, and deposit-linked insurance amounts, these provisions are provided in the old act.

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CONCLUSIONS

- The Indian Jurisprudence of Labour Law started as a result of pressure from the Textile magnates of Manchester and Lancashire, which has taken the form of not only management of rights and duties of workers and employers, but also of several social welfare legislations and social security.

So, we can see that these provisions. So, if you take the scenario, we can see that these legislations especially to regulate the working of workmen in India, at the same time, some of them are provided social security measures for the workers specifically for the workers. And at the same time, these legislations want to see that regulations in areas like payment of wages and also defining clear definition of some of these areas are mentioned in this legislation.

So, the Indian, if we look into the Indian jurisprudence, so, it is started with the agitations in the textile mills of Bombay or it is in Nagpur or it is in Chennai. So, the workers, so, later on, we can see that, these agitations, so they end up in legislating upon many legislations like the Trade Union Act, and other social security and welfare legislations. So, for more than we can say that 73 years or 74 years, these legislations were in place, which served the workmen of this particular country.

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REFERENCES

The Employees Provident Funds and Misc. Provisions Act, 1952

The Payment of Wages Act, 1936

The Minimum Wages Act, 1948

The Factories Act, 1948

And we will continue other legislations in the next class and we deal in this present class with these provisions of payment of Wages Act, the Minimum Wages Act, Factories Act and Employee's Provident Funds and Miscellaneous Provisions Act. The objective is not to look into each provision elaborately because we are going to deal with these particular provisions in the new codes elaborately, so the objective is very clear to look into the historical aspects and the minimum provisions embedded in these particular legislations. So, we will stop here and we will continue with the other legislations in the next class. Thank you.