

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 6 | Issue 1

2024

© 2024 International Journal of Legal Science and Innovation

Follow this and additional works at: <https://www.ijlsi.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for free and open access by the International Journal of Legal Science and Innovation at VidhiAagaz. It has been accepted for inclusion in International Journal of Legal Science and Innovation after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at International Journal of Legal Science and Innovation, kindly email your Manuscript at editor.ijlsi@gmail.com.

Contractual Labour in India

RHYTHM¹

ABSTRACT

India's economy is currently one of the fastest growing in the world. Foreign direct investment and the rate of industrialization have accelerated dramatically. This has resulted in the creation of numerous new small, medium, and large-scale industrial units, service sectors, etc., and both the customer base and demand are growing. Corresponding to this rising demand and meeting client needs Businesses in these sectors need to produce things around-the-clock. In addition to machinery, money is a crucial human resource for this project.

Three categories of labor exist: staff, on-roll team members (workers), and contractual employment. Staff is the first category. Contract labor is heavily used by several manufacturing businesses in order to cut human costs and overhead. And and the practise of using contract labour is becoming more popular. The Paper, which is based on secondary data, aims to illustrate the existing circumstances of contractual labour in India and the provisions now in place for them under Contract Labor.

I. INTRODUCTION

Contractual labour has a long history that dates back to ancient civilizations. In ancient Egypt, for example, labor contracts were used to govern the relationship between employers and employees. These contracts were written on papyrus and outlined the terms of employment, including the duration of the contract, the wages to be paid, and the conditions of work. During the Middle Ages, feudal lords used contracts to hire peasants to work their lands. These contracts often included provisions for the exchange of labor for protection and other benefits. In the 16th and 17th centuries, European merchants began using contracts to hire sailors and other skilled workers for long voyages and expeditions.

With the rise of industrialization in the 18th and 19th centuries, contractual labor became more common in the factories and mills of Europe and North America. Workers were hired on short-term contracts that often-contained harsh conditions and low wages. The growth of trade unions and labor movements in the late 19th and early 20th centuries led to the establishment of laws protecting workers' rights and regulating the use of contractual labor. Today, contractual labor is widespread in many industries and sectors, including construction, healthcare, IT, and

¹ Author is a student at SRM University Delhi NCR, India.

entertainment. Contract workers are hired for short-term projects or to fill temporary staffing needs, and their employment terms are typically governed by written contracts that outline the terms of the engagement, including the duration of the contract, the scope of work, and the compensation to be paid.

Contractual labor refers to a type of employment relationship in which an individual is hired for a specific period of time or to complete a particular project, rather than being employed on a permanent or ongoing basis. The terms of the contract typically outline the nature of the work, the duration of the employment, and the payment or compensation for the work performed. Contractual labor is common in many industries and is often used for short-term or project-based work, such as in construction, consulting, or freelance work. It can provide flexibility for both employers and workers, allowing employers to hire skilled workers on an as-needed basis, and giving workers the ability to take on multiple projects and work with different companies. However, contractual labor can also have disadvantages for workers, including the lack of job security, limited benefits, and less favorable working conditions compared to permanent employees. As a result, there are ongoing debates about the use of contractual labor and efforts to provide greater protections and benefits for workers in these types of arrangements.

Contractual labor in India refers to workers who are employed on a temporary or fixed-term basis under a contract with an employer. Contractual labor is common in many sectors of the Indian economy, including manufacturing, construction, and services. There are two types of contractual labor in India - fixed-term employment and casual labor. Fixed-term employment refers to workers who are employed for a specific period, such as a project, and their contract expires at the end of the term. Casual labor refers to workers who are employed on a daily or weekly basis and do not have a fixed-term contract. Contractual labor in India is governed by the Contract Labour (Regulation and Abolition) Act, of 1970. The Act requires employers to obtain a license from the appropriate government authority before employing contract labor and to comply with various regulations, such as minimum wage requirements, working hours, and working conditions.

Despite the regulations, there are concerns about the exploitation of contractual labor in India, particularly in the informal sector where there is little oversight. Contractual workers may not receive the same benefits as regular employees, such as health insurance or paid leave, and may be more vulnerable to wage theft and other forms of labor exploitation. Overall, contractual labor is an important part of the Indian economy, but there is a need to ensure that contractual workers are protected and their rights are respected.

(A) Statement of problem

One of the current issues in the world, as well as in India, is the use of contract labourers. Minimum wages are often provided by many industries, but there are also few social security and welfare programmes, significant differences between contract labourers and general labourers in their working conditions, the nature of their work, their working conditions, the lack of skills and training programmes, their socioeconomic conditions, and various committees to address these differences.

(B) Objective

- To provide an overview of the rights of contractual workers and the legal obligations that employers have under the Contract Labour Act.
- To outline the situation with contract labour currently in India

(C) Research Methodology

The research is entirely dependent on secondary sources of data that are exploratory in nature and pertain to the study's topic. This study's sources included electronic journals, web portals, text books, etc.

(D) Literature Review

In general, "Workers employed by or through an intermediary on work of any establishment" are referred to as contract labour. These workers can be separated from direct workers based on their relationship with their company and how they are paid. There is no direct connection between the contract workers and the main employer. Unlike other classifications of labour like permanent, temporary, casual, etc., it has a unique manner of functioning. The basis of the contract labour system is the triangle interaction between the user firms, the contractors, including the middleman subcontractors, and the employee. The workers are supplied to an establishment or hired to do its work by an outside agency or individual. They are not listed on the muster roll of the military, unlike direct work.

(E) Legal Definition

The Contract Labour (Regulation and Abolition) Act of 1970 in India provides a legal definition of contract labour.² In accordance with Section 2(b) of the Contract Labour (Regulation and Abolition) Act, 1970, a worker shall be deemed to be employed as "contract labour" in or in connection with the work of an establishment when he is hired in whether or not the principal employer was aware of it, in connection with such work performed by or via

² The Contract Labour (Regulation and Abolition) Act, 1970, No. 10, Act of Parliament, 1970 (India).

a contractor. The phrase "employed in or in connection with the work of the establishment" does not always imply that the task given to the employee is a component of or incidental to the job done by the primary employer. Additionally, personnel employed by a licensee for its own gain are not thought of as contract workers. Similar to this, a permanent employee of the contractor who may be assigned to several establishments at the contractor's discretion is not referred to as a contract worker.

II. SIGNIFICANCE OF CONTRACT LABOUR

A important and expanding type of work is contract labour. Employing contract labour is a widespread and long-standing practise that is seen around the world. Contract labour dates back to the emergence of small-scale enterprises that found it economically impractical or unviable to carry out all activities of the production process themselves. As a result, they recruited workers through contractors to complete some of the work. Since they lack negotiating power, have little to no social protection, and frequently work dangerous jobs that could risk their health and safety, contract workers typically operate in the unorganised sector. They frequently have little or no job security. However, factors include inconsistent employment, Advantages of the system of contract labour include difficulty in maintaining stricter employer oversight, higher output or productivity of such workers, cost effectiveness, flexibility in personnel deployment, ease of focusing on key capabilities, etc.

The major industrial enterprises in India employ 46% contract labour, according to a March 2014 Hindustan Times report. To maintain operational effectiveness, businesses must be able to deal with input costs like labour in a flexible manner. So as to maintain their competitiveness, they would like to keep it flexible. However, one must thoroughly comprehend its legal, social, and capability components in order to appreciate the business requirement for contract labour before arriving to a judgement. Contract Labour (Abolition and Regulation) Act of 1970 codifies laws pertaining to contract labour, while the Industrial Disputes Act of 1947 defines the mechanisms for their dispute resolution.³

According to recent news on the employer will be responsible to take medical examination of contract labours for instance urine sample, blood sample etc., and such factories will be under regular inspection by labour department.⁴

³ Industrial Dispute Act, 1947, No. 10, Act of parliament 1947 (India).

⁴ Delhi gov. approves draft proposal on labour working conditions, Economic Times (Apr 29,2023). <https://economictimes.indiatimes.com/news/india/delhi-govt-approves-draft-proposal-on-labour-working-conditions/articleshow/99860792.cms>

III. INDEPENDENCE STATUS

Contract workers were regarded as an exploited segment of the working class, primarily because of their own lack of organization. As a result, the Whitely Commission (1860) implicitly urged the elimination of contract labour.

In addition to the several disadvantages contract labourers faced before to 1860, the Workmen's Breach of Contract Act of 1959 functioned to hold them criminally liable in the event of a contract service breach.⁵ Following this, the government established numerous committees to investigate the socioeconomic circumstances of contract workers, including the Bombay Textile workers Enquiry Committee, the Bihar Labour Enquiry Committee, the Rega Committee, and others. The Factories Act of 1948 and The Mines Act of 1952 have changed their definitions of "workers" in light of these results.⁶

IV. SALIENT FEATURES OF CONTRACT LABOUR ACT

1. **Intent and coverage:** The Act calls for the regulation of contract labour employment and its elimination under specific conditions. It applies to any business where 20 or more workers were engaged in contract labour on any day over the previous year, as well as to any contractor who hires or employed workers. 20 or more contract workers on any given day over the previous 12 months. Unless the work is done for more than 120 days or 60 days in a year, respectively, it does not apply to enterprises where the work is intermittent and casual.
2. **Advisory Boards:** They are established by the central and state governments under the terms of the Act to provide guidance to each government on issues that may arise. (section 3 and 4).⁷
3. **Registration and licences:** They are necessary for the establishments covered by the Act. Main employers who possess the required authority. Every contractor must obtain a licence and is prohibited from performing any work using contract labour unless it is done so under and in line with the licencing officer has issued a licence in that regard. The licence is awarded subject to the laws' specified requirements for contract-related essential amenities, wage fixation, and work hours. Sections 7 and 12.⁸

⁵ Workmens breach of contract Act, 1859, Act XIII of 1859, Act of parliament, 1859 (India).

⁶ Factories Act, 1948, Act of parliament, 1948 (India).

Mines Act, 1952, Act of Parliament, 1952 (India).

⁷ The Contract Labour (Regulation and Abolition) Act, 1970, Sec. 3,4.

⁸ The Contract Labour (Regulation and Abolition) Act, 1970, Sec. 7,12.

4. **Facilities for contract workers:** The Act specifies a number of amenities that the contractor must offer to the contract workers, including the establishment of canteens and restrooms, plans for a sufficient supply of sanitary drinking water, latrines and urinals, washing facilities, and first aid facilities. The major employer is responsible for providing these amenities in the event that the contractor neglects to do so. (16, 17, 18, 19, and 20).⁹
5. **Wage payment:** The contractor must pay wages, and it is his responsibility to see that they are distributed in front of the major employer's approved agent. The major employer is responsible for making up any unpaid wages if the contractor fails to do so in full or in part. According to the Rules, contract workers who perform the same or a similar type of job as regular workers are entitled to the same pay and benefits. (Article 21).

V. RIGHTS OF CONTRACT LABOUR

The statute establishes the rights of contract workers to protect them from exploitation. These rights guarantee that they have the same status as workers, and their violation is actionable in a court of law. Contract workers' interests are safeguarded in terms of pay, working conditions, welfare, health care, and social security. Any agreement reached between the parties that is at odds with the protections offered by the Act and is unfavorable to labourers will be deemed invalid.

The contract workers are entitled to the pay, overtime pay, and benefits that are specified for their employment at the establishment. When the wage period ends, it must be paid immediately. The contract workers also have the right to be given safety precautions at the establishment and quick medical attention in the event of an injury to the labourer in accordance with the Minimum Wages Act. They have a right to amenities including bathrooms, canteens, washing machines, first aid stations, and many others. Women workers are entitled to private bathrooms and are not allowed to work in any occupations that are illegal in any jurisdiction.

Contractual Rights: Contract workers are entitled to a formal agreement outlining the terms and circumstances of their employment, including the length of the agreement, the type of work to be performed, the wage to be paid, and any other pertinent clauses. The rights and obligations of both parties should be expressly laid forth in the contract.

Fair Compensation: Contract workers have a right to receive just and reasonable payment for

⁹ The Contract Labour (Regulation and Abolition) Act, 1970, Sec.16,17,18,19,20.

the services they do. The payment terms, such as the hourly rate, fixed fee, or any other established compensation structure, should be stated in the contract.

Contract workers are entitled to fair working hours, relaxation periods, and other working conditions. Contract workers may be eligible for various social security benefits, including contributions to retirement plans, health insurance, disability payments, and unemployment insurance, depending on the jurisdiction in which they work. Depending on the nation and the type of the contract, different perks could be offered.

It's crucial to remember that labour laws and regulations can vary considerably between nations, as well as among various regions or industries within a single nation. Therefore, it is advised to check the precise labour laws and rules that apply in your country in order to get the most up-to-date and accurate information possible regarding the rights of contract workers.

VI. CURRENT SCENARIO OF CONTRACTUAL LABOUR IN INDIA

The proportion of contract workers employed by Maruti Suzuki, the largest automaker in India, reflects how businesses are adapting to the shifting dynamics of the labour market. The percentage of contract employees in the automobile company's overall workforce increased from 32% in 2013–14 to 42% in 2015–16.¹⁰ 65,000 contract labourers mined 55% of the 537 million tonnes of coal that Coal India, a public sector goliath, produced in 2015–16. This percentage is anticipated to rise in the current fiscal year to at least 58%.¹¹

One of the largest employers of contract labour is still the Centre. The Seventh Pay Commission reports that the Centre spent Rs 300 crore on contracts in 2012–13.¹²

The increasing demand for contract workers is consistent with a global trend towards flexible employment. Worldwide unionisation has decreased during the previous 25 years. Even medium-sized businesses in affluent nations now routinely outsource jobs and distribute their employees across numerous nations.

Developed nations with robust trade unions have been pushed to enact policies promoting temporary hiring while developing nations like China, Bangladesh, Egypt, Brazil, and Colombia change their labour laws to allow flexible hiring. Consider the idea of a "zero-hour contract," in which the employer is not compelled to offer any certain work hours but the

¹⁰ <https://www.livemint.com/Companies/E1c3nEBpJkD8I4YF11RrPN/Maruti-Suzuki-steps-up-hiring-of-contract-workers.html>

¹¹ Coal India to introduce labour payment management system, *Economic Times* (3 May 2015) <https://economictimes.indiatimes.com/news/economy/policy/coal-india-to-introduce-labour-payment-management-system-portal/articleshow/52091800.cms?from=mdr>

¹² <https://www.livemint.com/Industry/D2PEAR2RL7eZTX47kjp7UM/Meet-one-of-the-biggest-user-of-temps-and-contract-workers-i.html>

employee is required to be available whenever the company wants his services. The most recent illustration of flexible hiring in Britain is this.

According to unions, businesses prefer using contract labour due to the cost-avoidance. Contract employees receive substantially lower pay than permanent employees do. Legal professionals draw attention to gaps in the law and the fact that the judiciary has given the law different interpretations. In its ruling in the *RK Panda v. Steel Authority of India* case, the Supreme Court ruled that workers who had been with their employer for ten years should be treated as regular employees¹³. However, the court determined there was no legal provision implying the absorption of contract workers in a different case, *Steel Authority of India v. National Water Front Workers*.¹⁴

VII. INDIAN GOVERNMENT POLICY IN 2018 WITH CONTEXT TO CONTRACTUAL LABOUR

The Union government intends to take action to prevent businesses from exploiting the proposed framework for fixed-term contracts to turn their full-time employees into contract workers. One of them is to make sure that establishments' permanent employees are safeguarded so that they aren't changed into fixed-term workers once we enact the new law, said a labour and employment ministry official who spoke on the condition of anonymity.

Officials stated that the executive order on fixed-term employment, which is anticipated to be released next month, will include safeguard-related elements. The action is a result of a consultation meeting the ministry held with representatives of state governments, trade unions, and industry on February 15, 2018.

The 12 state governments who were present and represented at the meeting all supported fixed-term agreements. In addition to employers' groups, sources claim that three other trade unions—the RSS-affiliated *Bharatiya Mazdoor Sangh*, the *National Front of Indian Trade Unions*, and the *Trade Union Coordination Centre*—also supported the initiative. However, other trade unions left the conference in protest over the Union Budget's lack of consultations prior to the announcement of the change. Arun Jaitley, the finance minister, revealed the government's plan to let all firms to hire workers on fixed-term contracts in the budget for 2018–19. Fixed-term agreements enable businesses to recruit employees for brief periods of time and let them go once the project is finished.

¹³ *R.K. Panda v Steel Authority of India*, 1994 SCC (5) 304, JT 1994 (4) 1551

¹⁴ *Steel Authority of India Ltd. V National Union Water Front*.30 Aug, 2001

Flexi-staffing is becoming more and more accepted by the government. Recently, the clothing sector was permitted to use temporary labour. Another move in that direction is the choice to set the minimum salary for contract workers at Rs 10,000 per month. The government recognises that contract labour is now a reality and is attempting to facilitate it, according to Shankar Agarwal, secretary to the labour and employment minister.

VIII. ISSUE OF ARTICLE 19(1)(G)

The case *Basti Sugar Mills Ltd. v. Ram Ujagar and others*, although though it was resolved prior to the passage of this Act, provides an answer to the question of whether or not duties to provide facilities to contract labourers violate Article 19(1)(g)¹⁵. In this instance, the court made it abundantly plain that the public good comes before individual interests. The freedom to engage in commerce and business does not grant an employer the right to take advantage of his employees. The Court completely denounced and discouraged the practise of using a contractor in order to circumvent the privileges granted to industrial employees by significant Acts.¹⁶

In the case of *Gammon India Ltd. and ors. v. Union of India*, it was decided that the employer's responsibility extends beyond simply paying salaries to employees, and also includes providing them with the necessities for their well-being¹⁷. Therefore, the expenses spent are not taxes levied against the employer but rather are an essential aspect of this duty and cannot under any circumstances be considered waste or unnecessary restrictions. The SC has now sent a strong message to industrialists by making this ruling that the privilege to conduct business cannot be enjoyed without doing the tasks that they are expected to execute.

IX. CONCLUSION

The use of contract labor has grown significantly in the modern workforce, with many businesses choosing to do so rather than providing people with traditional full-time employment. After studying the subject, it is feasible to make the following deductions about contractual labor:

Flexibility is one of the main benefits of contractual employment for both businesses and employees. Contracts can be customized for certain tasks or time frames, giving businesses the flexibility to respond rapidly to shifting business requirements. The freedom to select their

¹⁵ *Basti Sugar Mills Ltd v Ram Ujagar And Ors*, 4th Apr. 1963, 1964 AIR 355, 1964 SCR (2) 838

¹⁶ [https://www.legalserviceindia.com/article/112-A-Study-of-Contract-Labour-\(Regulation-and-Abolition\)-Act,-1970.html](https://www.legalserviceindia.com/article/112-A-Study-of-Contract-Labour-(Regulation-and-Abolition)-Act,-1970.html)

¹⁷ *Gammon India Ltd. Etc. etc v Union Of India & Ors Etc* 20th Mar, 1974.

tasks and set their own schedules benefits employees as well.

Savings: Employers can frequently save money by hiring contract labor. Benefits like health insurance and retirement programs, which can dramatically lower labor expenses, are not their responsibility. Employers can also save money by using contract labor by avoiding the costs of hiring, training, and onboarding full-time workers.

Specialized expertise: Contractual work gives you access to specialized knowledge and abilities that your organization might not have. For particular tasks, employers can enlist experts with specialized knowledge or experience, producing higher-quality results.

Limited employee engagement: Compared to full-time employees, contract workers could feel less of a part of the company. Given that they are committed to doing the work they have been hired to do and may not have a long-term commitment to the organization, they might not have the same level of engagement or loyalty.

Potential for exploitation: Contractual work occasionally has the potential to result in exploitation, especially when there is an imbalance of power between the employer and the employee. Contract employees could receive lesser pay, more hours, and fewer perks. Employers must take steps to guarantee that contract workers are treated fairly and get adequate pay and working conditions.

In the end, using contract workers gives employers flexibility, financial savings, and access to specialized knowledge. However, it also raises issues with regard to employee engagement, job security, and the risk of exploitation. In order to develop a fair and effective workforce management strategy, it is essential to weigh the advantages and disadvantages of contractual employment.
