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The contract labour act of 1970: Issues and concerns

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Abstract

This paper examines the legal foundation for India's regulation of contract labour as well as the roles of the executive and judicial branches in enforcing this Act. It also emphasizes how the state agencies' perspectives on issues related to labour law enforcement have changed. The compositions are based on secondary data and doctrinal reasoning to make the case that the Contract Labour Act of 1970 (CLA) needs to be changed to rein in employers' rampant tendencies to use contract labour, which occurs even in core activities with the primary goal of reducing costs by taking advantage of worker's weak bargaining power. Additionally, it explores the underlying causes of the labour law enforcement system's dysfunction and makes recommendations for improving it.

Jel Classification Codes: J41, K12, K31.

Keywords: Contract labour act, contract labour

Introduction

In every welfare programme, minimising poverty is the vital aim. Even in the seventeen Sustainable Goals of the United Nations 'no poverty' stands in first place. Poverty reduction is the first step towards achieving no hunger, good health, and education for socio-economic development all over the world. These socio-economic disequilibria can be evicted by creating employment opportunities and security of employment. India is the largest labour force in the world. To provide opportunities to the workforce and to attract large investments in the country, the Government must be flexible in the labour market and labour laws. After liberalisation, India's labour market became more resilient in favour of capital. Because of it, the labour market has transformed its employment framework and its structure in the organized and unorganized manufacturing sectors. It has decreased the number of permanent employees and increased the other type types of employment such as contract, and part-time.

Review of Literature

The Contract Labour Act of 1970 in India is a piece of legislation that governs the employment of contract labourers in various industries. Here, are some related articles and studies that provide insight into the Act's impact and effectiveness.

Contract Labour Act and its effectiveness in protecting the rights of contract labourers. The Act has not been effective in regulating contract labour and suggests a more comprehensive law (Athore, S. S., & Pandey, V. 2019) ^[25]. The comprehensive overview of the Contract Labour Act, including its objectives, provisions, and implementation. The Act has had limited success in regulating contract labour and suggested measures to strengthen it (Verma, S., & Vashisht, A. K. 2020) ^[26]. The impact of the Contract Labour Act on contract labourers, employers, and the government. The author concludes that the Act has not been effective in achieving its objectives and recommends reforms to address the issues (Srinivasan, P. 2016) ^[27]. A detailed analysis of the Contract Labour Act's provisions, the challenges in implementation, and the impact on contract labourers. The suggestion measures to improve the Act's effectiveness (Sharma, S., & Nisha, N. 2018) ^[28]. The issues related to contract labour in India, including the Contract Labour Act's provisions and its effectiveness. The author recommends reforms to address the challenges faced by contract labourers (Malik, R. 2018) ^[29]. The overview of the Contract Labour Act's provisions, the challenges in implementation, and the impact on contract labourers. The author suggests measures to improve the Act's effectiveness (Rao, A. R. 2015) ^[30].

The matters related to contract labour in India, including the Contract Labour Act's provisions, the challenges in implementation, and the impact on contract labourers. The authors suggest measures to improve the Act's effectiveness (Gnanavelu, N., & Vijayalakshmi, M. 2016) ^[32].

Objective of the Study

- To analyze the Contract Labours Act (Regulation and Abolition) 1970.
- To study some main petitions that were filed before the High Court and Supreme Court to improve the conditions of contract labourers.
- To know the issues and problems of contract workers.

Contract workers

Contractor workers who do not work directly for the industry, but are employed through a firm that has a contract to do specific work for a specific period and also by and large, are, not paid directly or are not borne on the payroll. It was also noticed that in many cases contract workers did the same work as regular workers but were less paid than regular workers. Contract workers mainly suffer from a lack of job security, low labour status, unhealthy working environment, overwork, and casual nature of employment. This custom has led to the exploitation of contract workers. The dishonourable situation of contract workers was measured by several committees, commissions, the Labour Bureau, and also the Ministry of Labour pre-independence and post-independence. All of them have perceived the condition to be awful and exploitative nature of employment of contract workers. To protect these workers from the awful conditions the concern for giving legislative protection was created in the enactment of the Contract Labour (Regulation and Abolition) Act 1970 (further mentioned as the Act) by the Legislature. The vital aim of this act was and still is to stop exploitation and also create better working condition conditions for contract workers. Furthermore, the act was passed to tackle the main problem which prevents these contract workers from availing the benefits and rights which were benefited by regular workers under unlike labour and industrial provisions.

Adam Smith "Labour is the real measure of exchangeable value of all commodities, and human labour is the source of wealth." But in the present era, labour value is influenced by a liberalized labour market, increased underemployment, and unemployment. The reducing trends of permanent employment and the corresponding increase in contractualization of employment indicate the worsening of the situation of labour.

Which types of established come under the Contract Labour Act 1970

The Principal Employer's establishment must have at least twenty employees for the act to be applicable. The total number of contract labourers hired by other Contractors must also be counted. However, establishments that only perform occasional or casual labour are exempt from the act's application. If the work was done for more than 120 days in the past year or if it was seasonal and done for more than 60 days in a year, the act is applicable. It is noteworthy that the act applies to both government and private employers. The Act defines "workman" as any individual who performs skilled, semi-skilled, or unskilled manual, supervisory, or clerical work for hire or reward. The Central

Industrial Relations Machinery is responsible for enforcing the provisions of the Act and the rules made thereunder in the Central sphere. When violations of the Act, Rules, or notifications forbidding the employment of contract labour are found, the Field Officers of the CIRM regularly investigate the businesses and file charges against them.

Judicial Interpretation

The courts did not have to encounter hindrances in giving reassurance to the misrepresenting party in disputes related to the opportunities that should be assigned to the contract workers for those recommendations had unambiguously been cataloged in sections provided by laborers. After the Act's enactment, which occurred on the 5th of September 1970 but didn't take effect until the 10th of February 1971. This is because of the Act's Sections 16, 17, 18, and 19 of the Act. Enumerated the facilities that should be provided to contract laborers. By the Act, the clear definition of workmen, contractor, and employer had also been given in section 2 which assisted the court in explaining the sense of these words which in normal situations seem too vague and broad.

There were so many cases that came up before the courts including (1) Heavy Engineering Mazdoor Union Vs. the State of Bihar which related the phrase 'under the Authority of' must be explained in simple and simple detail and also 'Authority' must be interpret interpreted according to its normal meaning which defines legal authority given by one person to another to perform an act, (2) R.K. Panda & Ors. Vs. Steel Authority of India Ltd. and also Rourkela Shramik Sangh Vs. Steel Authority of India Ltd. Cases related to the term 'absorption of workmen and abolishing contract labour in industries. The court said that the Act supervises contract workers but has never suggested abolishing it. The court also said that the introduction of specific clauses in the contract with contract workers by the firm or industry doesn't give them a right to get away from the job of giving the contract workers rights. The court instructed the industry to meet with the following: The workers who were sustained in the work for the last 10 years, despite the change of contractors and not meet the age of retirement and also physically fit should be acquired as regular employees in the sequence of seniority. Regular wages will be receivable solely for the later period to absorption and not previous to that. (4) Gammon India Ltd. and Ors. Vs. Union of India and Ors. held that the employer's duty is not only to pay wages to workers but also to give them essential facilities to nurture their health and wellness. (5) The case of Bhilwara Dugh Utpadak Sahakari Sanstha Ltd. Vs. Vinod Kumar Sharma was related to the showing subterfuge to workers' status for escaping to deny the rights of workers under different labour statutes by presenting that the related workers are not their workers but are the employees of a contractor or they are only short-term or daily wage or casual workers when in real they are working equally as regular workers. However, gaining profit by exploiting workers cannot be authorized in a republic and democratic country. (6) Nihal Singh & Ors Vs. State of Punjab & Ors case in which The Supreme Court of India held that even the State Governments and public sector banks should not be permitted to avail cheap workers for years because this action is not accurate with their requirement in-laws in the constitution.

Problems faced by Contract Workers in India

The primary reason why companies hire contract workers is that it provides them with greater flexibility in terms of workforce management. By hiring contract workers, companies can quickly scale up or down their workforce based on their business needs. However, the practice of hiring contract workers has several negative implications, both for the workers themselves and the wider economy. Contract workers encounter many problems within society and industry following these problems.

- One of the most significant problems faced by contract workers in India is job insecurity. Since contract workers are employed for a fixed duration or project, they are not entitled to any job security or benefits such as pensions, vacation, or healthcare, which can leave them vulnerable to financial insecurity in case of illness, injury, or old age.
- Moreover, since contract workers are not considered permanent employees, they are not entitled to the same wages or benefits as permanent employees. This often leads to significant wage disparities between contract and permanent workers, with contract workers receiving significantly lower pay and benefits.
- The problem of contract workers is further exacerbated by the lack of legal protection and enforcement. Contract workers are often subjected to exploitation and abuse, with employers violating labour laws and failing to provide even basic working conditions such as safety measures or hygienic facilities. And even many contract workers are not even aware of their legal rights.
- The problem of contract workers in India also has wider economic implications. The widespread use of contract workers leads to a decline in labour standards and contributes to the growing problem of informalization of the economy.
- The problem of contract workers is particularly acute in sectors such as construction, manufacturing, and services, where companies often rely heavily on contract workers to keep their costs low.

The problem of contract workers in India has been recognized by various stakeholders, including labour unions, civil society organizations, and policymakers. However, there is a lack of political will to address this issue, given the economic benefits that companies derive from the widespread use of contract workers.

Suggestions to protect contract workers

- Central and State Government and Public sector undertaking should not be permitted to employ cheap contractual labour for long periods.
- To provide a skill and training program for contract workers that is specifically job-oriented.
- There should be built equal opportunities for contract and regular workers.
- Before enactment of any law Government must examine the social security for economically weaker section workers.
- For implementation of the law, it should be essential the coordinate between the stakeholders and concerning contract worker workers.
- Welfare amenities and social security are also provided to contract workers.

- The labour unions must make take strict action against the rigid implementation of government policies.
- The NGOs and Government must start programs to spread awareness.

Conclusion

There should be proper administration of justice to make the contract workers aware of their rights and liabilities. Therefore, they will be able to know any irregularities in practice or law and take essential steps for its correction. Further, the next step is to empower the workers to raise their voices against exploitation so that they can complain confidentially to the independent authority and get justice. In the present era of industrialization, multinational companies, their domestic cohort, and global financial agencies are all exploiting workers to gain more and more profit. This hypothesis, in the present time, is 'flexibility of labour'. This solely means more casual workers, more contract workers, fewer permanent/regular workers, fewer rights for unionization, a low level of security for workers, etc. The formal policy seems to be that worker will have to sacrifice their rights if the country's economy is increasing. Consequently, many State Governments have preferred to employ contract workers as inferior work. Therefore, the Contract Labour (Regulation and Abolition) Act, of 1970 has not been favourable to the problems of contract workers. It should need a complete change to upgrade the socio-economic status of the contract workers.

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