

Enhancing Labour Policies: Ensuring Fair Treatment for Contract Labourers

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ABSTRACT

The article provides an overview of the procedures involved in hiring contract laborers and explores various aspects related to labour laws, occupational safety, violations, and the status of contract workers in India and other countries. The article highlights the need for registration and certification under state government, provision of facilities for laborers, and adherence to occupational safety standards. It discusses the importance of maintaining a balance between labour market efficiency and job security measures. The article emphasizes the need for proper enforcement of labour-related laws and the implementation of social security schemes to protect the rights and well-being of contract workers. It also sheds light on the violations of labour laws and the challenges faced by contract workers in terms of job security and fair wages.

The article compares labour laws and practices in different countries, including China, East and Southeast Asian countries, Europe, and the United States, providing insights into their approaches towards labour protection and productivity. Furthermore, the article addresses the issue of equal pay for equal work and the Supreme Court's stance on the contract labour system. It raises concerns about the promotion of the contract labour system by the government and the exploitation faced by contract workers in various industries, including multinational companies.

The article concludes with recommendations to enhance labour policies, such as providing flexibility in employment, improving skill development programs, ensuring fair wages and benefits, and enforcing labour laws effectively. Overall, this article provides a comprehensive overview of procedures for hiring contract laborers and highlights the challenges, violations, and recommendations related to labour laws and the well-being of contract workers in India and other countries.

Keywords: Contract labourers, exploitation, job security, occupational safety, social security.

INTRODUCTION

The global workforce has witnessed a significant transformation in recent years, with an increasing reliance on contract labourers across various industries.³ The utilization of contract labour provides

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flexibility to employers, allowing them to adjust their workforce based on changing demands. However, this practice has also raised concerns about the fair treatment and well-being of contract workers. This article aims to delve into the critical issue of enhancing labour policies to ensure fair treatment for contract labourers. By examining the procedures involved in hiring contract labourers, exploring various aspects related to labour laws and occupational safety, and shedding light on the challenges faced by contract workers, we seek to highlight the urgent need for comprehensive reforms in this domain.

One of the fundamental aspects that this article addresses is the status of contract workers in different countries, particularly in India and other nations worldwide. By comparing the labour laws and practices in various regions, including China, East and Southeast Asian countries, Europe, and the United States, we can gain valuable insights into different approaches towards labour protection and productivity. This analysis allows us to identify gaps in existing policies and propose effective measures to bridge them. A key focus of this article is to emphasize the importance of striking a balance between labour market efficiency and job security measures. While it is essential to create an environment that promotes economic growth and flexibility, it is equally crucial to safeguard the rights and well-being of contract workers. We delve into the significance of registration and certification under state government, provision of adequate facilities for labourers, and strict adherence to occupational safety standards to ensure a conducive working environment.

Moreover, the article addresses the challenges faced by contract workers, including violations of labour laws, lack of job security, and unfair wages. We shed light on the exploitation that often plagues contract labourers, particularly within multinational companies and various industries. By bringing these issues to the forefront, we aim to raise awareness and advocate for the rights of contract workers on a global scale.

Furthermore, the article examines the concept of equal pay for equal work and explores the stance of the Supreme Court on the contract labour system. We critically analyze the government's role in promoting the contract labour system and the potential consequences it poses for workers' well-being. And only through concerted efforts and the enforcement of labour laws can we ensure that contract workers are treated with dignity, respect, and fairness they rightfully deserve.

PROCEDURES FOR HIRING CONTRACT LABOURERS

Every company hires contract labourers to work for their company, and to hire such workers, the company needs to get a registration certificate from the respective state government. The procedure for registration of such companies is given below:

Form No. 1, along with the application and the receipt showing payment of the prescribed fee, should be taken to the registration office for registration. If the application so made is completed in all respects, the Registering Officer shall register the company and shall also issue a copy of the certificate of registration in Form II.

In their absence, it should be ensured that the workers are paid their fair wages due to them. It is necessary to provide the following facilities for the labourers:

- Canteen facilities for labourers (if the workers employed are 100 or more and work for six months or more) should be taken care of.
- It provides identity cards to the workers to acknowledge that they are working for that company.

- Adequate rest rooms for night workers should be observed in places where work is carried out for three months or more.
- It is very important to ensure that there are separate urinal facilities for men and women.
- Provision of drinking water, a washing place, first aid, a crèche, etc. should be ensured for the workers.
- Important registers and record notes are to be maintained properly.

OCCUPATIONAL SAFETY FEATURES

Those who place more emphasis on labour market efficiency argue that government interventions, such as job security measures, reduce employment, affect productivity and growth, and thereby affect workers in the long run.

- They are providing performance incentives through higher pay, bonuses, and promotions for top performers and making workers as productive as possible through educational training.
- Adequacy of smooth industrial relations to ensure speedy resolution of problems between workers and management to minimise loss of working days due to work stoppages, etc.
- To better enable the workers to cope with the shocks in the economy in a harmonious manner and support the reduction of barriers and interventions in the labour market.

Although these two concepts are different, since both are important, the answer to choosing which one is needed is to strike a balance between the two. So, most countries follow labour policies somewhere between these two contrasting positions. This preference will vary depending on the level of development and unemployment prevailing in the country. When a country is developing, it needs to support only a small group of people who are more welfare-dependent and unemployed. However, in the early stages of industrialization, when there are large numbers of people without full employment, more attention is paid to the skills aspect. Similarly, countries with open economies should attract more exports and foreign direct investment and have a skilled labour force to face the export market. Thus, they have to give more importance to the skill aspect.

VIOLATIONS OF THE CONTRACT LABOUR ACT

Any person who contravenes any section of the Act shall be liable to imprisonment for a term exceeding three months or to a fine that may extend to Rs. 1,000 or to both, depending on the severity of the offence. Under the No Additional Penalty Act, a person working in the company who violates any of the rules may subsequently be sentenced to three months' imprisonment, a fine of one thousand rupees, or both, depending on their offence.

Who will rehabilitate these victims of the emerging market economy? In this market economy, most of the graduates are unemployable and cannot be employed. Also, employment is lower.

PROCEDURES NOT FOLLOWED BY RECRUITERS

The Contract Labour (Regulation and Abolition) Act of 1970 and the Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act of 1979 are longstanding. But the reality today is that no one follows them.

Likewise, cleaners. Many of them are hired as contract workers. All of them are forced to carry out sanitation work in very poor and inhumane conditions. Even when laws prohibit manual defecation, this practise continues. In every judgement, the Supreme Court has said that when contract employees do the same work as permanent employees, they should be paid the same wages as permanent employees.

However, all these directives are only taught in the classes of law colleges and are not followed by companies. Similarly, the Social Security Scheme for Informal Workers (2008) has been largely overlooked. The Second National Commission for Labour in 2002 strongly recommended that the exploitative contract labour system be eradicated over time.

It also recommended the implementation of a comprehensive social security scheme. The Commission had also rightly recommended that if a person has worked in an organisation for more than two years, he should be treated as a permanent employee and not as a contract worker. However, in 2001, in the case of SAIL v. National Union of Coastal Workers and Others, the Supreme Court reversed some of its earlier decisions. The Supreme Court ruled that the law does not make any provision for contract workers to automatically become permanent workers when the contract labour system is abolished, and the employer has no responsibility to regularise this.

GET HIRED, GET FIRED

It is true that our labour laws are strict and protective of workers. But this statement applies only to lucky permanent employees. It should also be taken into account that permanent employees constitute only 10% of the total workforce.

'Hire, fire' is the norm in the case of contract workers. Thus, the government's unfettered market economy is in full swing. The irony is that strict labour laws have pushed the labour force towards mass contracting. We also have to look at the fact that those who are marginalised by society often become contract labourers.

The Contract Labour Act of 1970 applies only to contractors and companies with twenty or more employees. Therefore, the number of such employees may be higher than actually accounted for. All such workers are treated like victims in the 21st-century liberalised Indian economy. Pay committees are always very generous in increasing the pay structure of permanent employees at regular intervals. But the real needs of contract workers have been repeatedly ignored by the government. Our policymakers should ensure that such labour-related laws are strictly enforced. The Wages Bill 2019 has already been passed in Parliament. Indeed, if globalisation is to be promoted further, we must reform labour laws. But at the same time, the need of the hour is to have a comprehensive set of social security programmes for infantrymen's growth and development.

STATUS BEFORE 1970

Prior to 1970, some companies, like Attiphut, introduced contract labour only for certain jobs. The company's permanent workers and trade unions fought and stopped this. In some places, the permanent workers of the company approached the courts through the trade unions to cancel this contract labour system. The judgements of the Labour Courts, High Courts, and Supreme Court after hearing those cases have stated that workers are more exploited in the contract labour system; the contract labour system is inimical to the interests of workers. The number is high, and the number of direct workers for the companies is low. In some companies, there is a bad situation where all the workers are contract workers. As a result of allowing direct workers to employ a large number of contract workers in an enterprise, their bargaining power has been greatly reduced. Direct workers are also divided into daily wage, casual, temporary, substitute, and trainee, and by giving low wages, the employers get looted profits. These workers are not unionised. If they join a union, their jobs will become vacant. Therefore, even though the

law says that equal pay for equal work is permanent after completion of 480 days of work, equal pay and permanence are still in practise for direct workers.

LABOUR LAWS IN OTHER COUNTRIES

China, the world's largest exporter of manufactured goods, has maintained practical labor laws that ensure the full utilization of workers' productivity and potential despite being ruled by a Communist Party that was founded with the aim of voicing workers' interests. Accordingly, permanent employees who violate labour laws or are accused of corruption may also be dismissed. Also, workers are appointed on a contractual basis, and their contract is not extended unless they are paid for it. Companies with export zones are empowered to hire and fire a large number of employees. This right is given with the objective of attracting more foreign direct investment. It ensures an orderly and efficient work force.

Although most countries in East and Southeast Asia, such as Indonesia, Thailand, Malaysia, Taiwan, and South Korea, have similar policies, some of the finer details of the law vary from country to country. Many of these countries have strengthened their labour laws as their economies have strengthened. When an employee is terminated, those countries must pay one month's salary every year equal to the wages paid on the last day. Severance pay does not need to be paid in Singapore to employees who have worked for less than three years and who have held managerial positions. In most East Asian countries, bonuses are given to workers based on the company's profits.

Most European countries have similar labour laws. Since European countries are developed and unemployment problems are not present, these laws are favourable to workers. In the UK, under India's labour laws, a person can be dismissed only if there is a just cause or if fair procedures are followed. In the UK and some European countries, termination of a contract is also considered dismissal. However, in Britain, a week's salary is a maximum of three months' salary per annum.

However, Western European countries, being developed countries, have a social security system in place that provides a fair amount to the unemployed. Labour protection rules are in statutory form and are enforceable through labour tribunals or courts. It has to be confirmed in court that companies employing 100 workers have followed the Companies Act, unlike in India, which requires the approval of the government if a company employs 100 workers.

Although US labour laws allow for termination of employment, any contract with the union must be honoured. However, due to the functioning of social security in the United States, unemployed youth are given benefits for up to one year, and training is also in place.

In contrast, Japan has restrictive labour laws. Dismissal is very rare in this country due to Japanese laws and traditions. However, the permanent work system has found a way to maintain labour efficiency and productivity despite being in place. Workers are given a maximum of three to four months' salary as a bonus based on the profitability of the company and their skills. It increases efficiency among the workers by making them feel that they have a stake in the company's profitability.

INDIAN LABOUR ACT

India, a developing country with a large number of unemployed youth, has one of the safest labour laws in the world. No other country in the world has such a labour law, not even in developed countries. That way, there is permanent employment in India's formal sector. A company employing more than 100 employees has the protection that no worker can be fired without the permission of the government. Public sector employees receive annual salary increments with no relation to performance. Consideration should

be given to whether such a high level of security should be afforded to the product. More labour protection policies in China, East Asia, and India will not benefit workers in the long run and may even harm them. Labour laws in East Asian countries are designed to employ workers efficiently and harmoniously. Due to this, there is no strike.

Korea, Taiwan, Malaysia, and Singapore follow the Japanese style of flexible wages. Bonuses that are partially dependent on the company's profitability increase the responsibility and cooperation of employers. It is Japanese practise that job security is also provided when incentives for individual workers' performance are combined with bonuses. East Asian countries are also providing public education and training to increase the productivity of workers. In this aspect, East Asian countries, including China and Japan, have highly regulated, motivated, compliant, and well-trained workers.

A perfect balance between such capacity and well-being (or security) has not been developed in India. Although historical and social factors do not allow India to have a skill craze like in South Asian countries, it is necessary to make reasonable efforts to develop and increase the skills of the workforce. For this, the following labour policy of Eastern India should be followed to help and improve the employment and earnings of Indian workers' long-term well-being.

EQUAL PAY FOR EQUAL WORK

Although the Contract Labour Act of 1970 states equal pay for equal work, no company pays contract workers the wages paid to permanent workers.

The government has the power to block the contract system. According to the said 1970 Act, the decision to ban contract labour in an enterprise is to be taken by the concerned government—the central government or the state government. The Act says that the courts have no power to do so.

SUPREME COURT FAVOURS CONTRACT SYSTEM

In 2001, the Supreme Court quashed the Tamil Nadu government's order not to employ contract workers for cleaning and cleaning jobs in industrial establishments controlled by the Tamil Nadu Labour Department. This is a reversal of the Supreme Court's earlier pronouncement that the contract labour system is highly exploitative of workers.

After the 1970 Act, the position of the Supreme Court changed. Even though the government issued an order abolishing the contract labour system in a particular job, the order was cancelled and the contract labour system was encouraged.

GOVERNMENT OF TAMIL NADU PROMOTES CONTRACT SYSTEM

As of today, the Tamil Nadu government has not banned the contract labour system in any other companies, except for the order banning the appointment of contract workers in cement manufacturing factories, filling cement bags, and printing bags, and the order abolishing the contract labour system for some jobs in the Tamil Nadu Electricity Board. They don't know how unions can contract for permanent workers to get a raise every 3 or 4 years. They have no guaranteed bonus. There is also no guarantee of gratuity upon retirement. Similarly, it is a question of whether the contractors who employ these workers pay the management share and the labour share in the future provident fund.

The safety of contract workers is also a matter of concern, as evidenced by the recent incident of an oil slick at Ennore Kamaraj port, where ships collided. Once the ship enters the port area, all the work related to its movement is done by the port administration through contract workers. There is no place where there

are no indentured labourers, whether God exists or not. Today, contract labour has become an uncontrollable form of exploitation. This exploitation continues with the full help of the central and state governments. Instead of the government and the courts being institutions that protect the workers, the story unfolds where the fence grazes the crop.

CONTRACT WORKERS IN MULTINATIONAL COMPANIES

Trade unions are not allowed to operate in multinational companies. No law can touch them. The Department of Labour acts as a patron for these multinational corporations. Contract workers are mostly employed by multinational companies.

For example, below is a description of contract labour at a Hyundai car company near Chennai, based on a newspaper report from two years ago.

Number of Divisional Workers Monthly Salary (Rs.)

- Permanent Labour = 1550–28000
- For a one-year internship, 250 -10,000
- For three years of training, 350–5400
- Company Apprentice =1250 -4500
- Government Apprentice = 2550–2600
- Contract labour = 3100–4600

This will make it clear how multinational capitalists are making predatory profits by paying low wages.

RECOMMENDATIONS TO ENHANCE THE LABOUR POLICY

Some flexibility should be allowed in the employment of workers, recognising that a reasonable amount of job security is a reasonable requirement of the worker. It is clear that allowing unsustainable enterprises to operate through public subsidies is not sustainable in the long term. Companies that have to stop or reduce production or that have to be technologically restructured to meet competition should be allowed to retrench humanely. Similarly, companies should be allowed to take action against workers who misbehave or do not work properly. To prevent misuse of dismissal procedures, the company must prove the fault of the worker in court, and in the event of wrongful dismissal, adequate compensation or re-employment should be provided.

Increase the employee's tenure from 240 days to 3 years for easy dismissal and follow the Japanese style of compensatory pay for employees. Linking employees to the company's profits Promotions based on best performance Incentives for employees seeking to improve skills and increase employee productivity would be a politically acceptable way to increase productivity in a country like India with a tradition of job security.

We should examine more flexible labour laws. For example, this can be examined in export functional zones due to the high variation in export densities and high skill and competitive labour demand. It will also allow for additional foreign direct investment. Greater job creation in these zones may raise employee and union fears regarding more skill-oriented labour laws.

More efforts should be made for the education and training of workers to get more productivity from them. Basic education and vocational training should be made compulsory for all children up to class 10. This is essential for long-term economic growth.

It is also necessary that great efforts are made to increase the capital for each employee. It also includes policies to encourage savings and investment both domestically and abroad.

If these aspects are incorporated into our labour policy, it will significantly improve the power of our workers. At the same time, individual income for workers and rapid job creation are possible only if export-oriented industrialization policies are formulated together with labour policy. Since India has already undertaken most of the other reforms towards export-oriented industrialization, it will greatly benefit from labour policy reforms in terms of higher growth in employment and an increase in worker earnings.

CONCLUSION

In conclusion, this article has shed light on the critical issue of enhancing labour policies to ensure fair treatment for contract labourers. By exploring various aspects related to labour laws, occupational safety, and the challenges faced by contract workers, we have identified the urgent need for comprehensive reforms in this domain. Throughout the article, we emphasised the importance of striking a balance between labour market efficiency and job security measures. While flexibility in employment is necessary for economic growth, it should not come at the expense of the rights and well-being of contract workers. To enhance labour policies and ensure fair treatment for contract labourers, we proposed several recommendations. These include providing flexibility in employment, improving skill development programmes, ensuring fair wages and benefits, and enforcing labour laws effectively. Additionally, we highlighted the need for comprehensive social security programmes to support the growth and development of contract workers. It is crucial for policymakers, employers, and society as a whole to recognise the value and contributions of contract labourers and take proactive steps to protect their rights. By implementing these recommendations and creating a supportive environment, we can strive towards a fair and equitable labour system that benefits both employers and workers. Enhancing labour policies requires a comprehensive and balanced approach that considers the needs of both employers and contract workers. By addressing the challenges, violations, and recommendations discussed in this article, we can work towards a fair and just system that upholds the rights and well-being of contract labourers in India and other countries.