

Contract Labour System In India: Issues and Challenges Need For Social Work Intervention

Karibasamma N,
*Research Scholar,
Deptt. of Social Work,
Vijayanagara Sri Krishnadevaraya Uni.
P.G.Centre, Nandihalli-Karnataka*

Dr. Pavitra R Alur
*Asstt. Prof.,
Deptt. of Social Work,
Vijayanagara Sri Krishnadevaraya Uni.,
P.G.Centre, Nandihalli-Karnataka*

Abstract

Contract Labour is a significant and growing form of employment in various types of industries. The exploitation of contract labour is now biggest issue in the era of globalisation and liberalisation. The aim of this Paper is to focus on the overview of the contract labour system in India, Evolution, the analysis of the present law and various loopholes under the Act. This Paper also analyses the history of the contract labour Act and how the existing law Evolved in India by referring various committees' recommendations. This paper also explains judicial interpretation on some important issues of contract labour Prohibition and Abolition Act, 1970.

Key Words: *Contract Labour, Issues and Challenges, Social Work Intervention*

Reference to this paper
should be made as
follows:

**Karibasamma N,
Dr. Pavitra R Alur,**

*Contract Labour
System In India:
Issues and Challenges
Need For Social Work
Intervention,*

Journal Global Values,
Vol. IX, No.2,
Article No. 5,
pp.26-33
[http://anubooks.com/
?page_id=285](http://anubooks.com/?page_id=285)

Introduction

In the present world Liberalisation and globalisation are increasing at a very high space and it presented change of business environment; profit oriented economics and increased competition among industries for survival. Many MNC S, representing the best brand in the world, started investment in India because of Potential market capability and availability of workforce. They started setting up their offices in India, giving a tough competition to their counterparts. To compete in this customer driven market economy, industries requires flexibilities in managing manpower to address occasional upsurge or slowdown in demand. But the ancient and rigid Indian Labour Laws which were enacted 8-4 decade's back, restricting right size of manpower, are creating hurdles in smooth functioning of industries. These factors are tending industries to hire more and more numbers of contract labours to have greater flexibility to adjust the number of workforce based on economic efficiency, better utilisation of resources, optimisation of profit and bringing cost effectiveness despite the risk of lower worker loyalties and lousy pay. But primarily we need to know who is contract Labour, Contract Labour can be distinguished from direct labour in terms of employment relationship.

Historical Background

The historical aspect of the contract labours in India would definitely give a clear view of how the system of employing contract labour came into being. Contract labour has its root from time immemorial. During the early period of industrialisation, the industrial establishments were always faced with the problems of labour recruitment. British employers or their representatives were not accustomed with some basic problems of the employees like

Low status of factory workers, lack of labour mobility, caste and religious Taboo, language etc. They were unable to solve these problems. Therefore, they had to depend on middle man who helped them in recruitment and control of labour. These middleman and contractors were known by different names in various parts of the country.

Contract labourers were considered as exploited section of the working class mainly due to lack of organisation on their part. Due to this, the Whitely Commission (1860) recommended the abolition of contract labour by implication. Before 1860, in addition to the many disadvantages suffered by the contract labour, the Workmen s Breach of Contract Act 1959 operated in holding them criminally responsible in the vent of breach of a contract service. 4

Subsequent to this, Many Committees were formed by the Government to study the socioeconomic conditions of contract labour like Bombay Textile Labour Enquiry Committee, The Bihar Labour Enquiry Committee, the Rega Committee etc. As a result of these findings, the scope of the definition of “workers” in the

Factories Act, 1948, The Mines Act, 1952 and The Plantations Labour Act, 1951 was enlarged to include contract labour. In the case of **Standard Vacuum Refinery Company Vs. Their Workmen**, the Supreme Court observed that the contract Labour should not be employed where:

- a) The work is perennial and must go on from day to day
- b) The work is incidental to and necessary for the work of the Factory
- c) The work is sufficient to employ considerable number of whole time workman
- d) The work is being done in most concerns through regular workmen

In the second five year plan, the planning commission stressed the need of improvement in the working conditions of contract labour and thus, recommended for a special treatment to the contract labour so as to ensure them continuous employment where it was not possible to abolish such type of labour.

Overview of Contract Labour Regulation & Abolition Act:

Before the enactment of this act there was no specific legislation which dealt in detail with the problem of contract labour. Although there were legislation like Industrial Disputes Act, 1947, Payment of Wages Act, 1936 etc. But these enactments were not specifically designed to solve the problem of contract labour. Therefore, there was a need to for a specific legislation to stop exploitation of contract labourers by Contractors and Establishments. The main object of the Act is to provide for regulation of the employment of contract labour and its abolition under certain circumstances.

Registration

This Act made it obligatory for the establishment and industries to register before the concerned authority (Asst. Commissioner of Labour or Labour Officer) in a period as fixed by the government before employment of contract labour. The Establishments which deploy or have deployed more than 20 contract labours are required to register the Establishment under the Enactment with the concerned Authority. The application for registration by the principal employer must contain various particulars in relation to the establishment and it shall be made in triplicate in Form-I to the registering officer of the area with appropriate fees as fixed by the government. The certificate of registration shall be granted mentioning the name and type of the establishment, type of business, maximum no. workmen to be employed as contract labour and other particulars in relation with the contract labour in Form-II. If there is any change in the particulars of the establishment, it must be informed to the authority within reasonable time.

Rights of labour

The act determines the rights of the contract labour so as to make them secure from any exploitation. These rights ensure equal status of them as of the

workmen and the violation of which is enforceable in court of law. In terms of wages, hours of work, welfare, health and social security contract labourer's interests are protected. Any Agreement entered between the Parties and if any clauses in the agreement is inconsistent with the benefits provided under the Act and are not favourable for the labourers will be treated as invalid.

- The contract labours are entitled for the wages including overtime wages and allowances as stipulated for their work at the establishment. It must be paid without delay whenever the wage period is over. It must be in accordance with the Minimum Wages Act.

- The contract labours have also the right to be provided the safety measures at the establishment and immediate health service in case of any injury to the labour. They are entitled for facilities like rest rooms, canteens, washing facility, first aid facilities and many more. The women labours are entitled for the separate washrooms, restrooms.

- They are entitled not to be employed in any work which is prohibited under any law

Issues of Contract Labour Regulation and Abolition Act, 1970:

According to the Contract Labour Act, the organisations are supposed to adhere to the Minimum Wages norms. However it can be seen that there are workers earning less than 100 per month which does not comply with the minimum wages criteria. In general it has been found that there are three categories of firms as far as wage payment is concerned. The large private firms that pay more than market wages as efficiency wage. The efficiency wage hypothesis in economics states that if the work effort depends positively on the wage level, a profit maximising firm would find it profitable to pay above the market clearing level.

The second category firms are those which strictly adhere to the prescribed minimum wage Norms. The third category comprises the large number of small private firms which prefer to employ uneducated worker who can be paid less than the prescribed minimum wages.

Though contract workers enjoy provident fund benefit, the provident fund is often a burden to them rather than a benefit. It is a burden in the sense that every month some fixed amount is deducted from their meagre salary for provident fund contribution. However, these workers often change their contractors they work for and the account need to be transferred.

Unfortunately once a worker leaves a contractor, he/she never get any co-operation from the previous contractor in this regard. It is the duty of the principle employer also to verify the PF details, which is however, not often done. In order to recover the PF amount, a contract worker has to have bank account in which the sum due should be deposited by cheque.

Contract workers often cannot maintain accounts because of minimum deposit requirements by banks. This makes recovering their PF dues even more difficult. In addition, there are a number of un-registered contract agencies that deduct provident fund contributions from the workers but never deposit the same in the provident fund office and after a few years change the location and start the new business in different name. There are obvious advantages of being un-registered as it enables an agency to evade taxes, in addition to avoid paying PF, ESI Benefits etc. to a worker and thereby increase one's profit margin. Therefore when a registered company tries to compete with an unregistered one, the only possibility appears to be to exploit the labour as they are in excess supply. Due to high level of competition, profit margin measured through commission has gone down drastically. Usually small and medium contract agencies do not enjoy scale economics and if volume of business goes down, they cannot operate in a very low margin. This often leads them to collude with the principle Employer and sometimes with Labour Inspector and compete effectively in the market.

In the context of globalisation, privatisation and liberalisation in March 2000 a GOM was constituted to examine the proposal of the ministry to suitably amend the provisions of the Act with a view to facilitating outsourcing of activities to specialised firms having professional experience and expertise in the relevant area and at the same time to provide for a safety net to contract labour in such outsourced activities. Such a measure, it was felt, would generate employment growth.

The Contract Labour (Regulation and Abolition) Act 1970 was enacted to regulate the practice of contract labour to avoid exploitation of laborers. Section 10 of this act empowers the government to prohibit contract labour in certain situations at the discretion of the government.

Contract Labour refers to the laborers who do not work directly for a firm but are employed by another firm which has a contract to do particular work. This type of labour allows flexibility for the firm and permits outsourcing the work. The issues with this act are as follows:

- A Supreme Court Judgement said that if the factory employs contract labour for a work, which also happens to be its main activity, then contract labour should be abolished. This simply means that if you want to do your main activity via contract labour, it's illegal; and you need to employ regular labour.
- This further implies that the act requires abolishing of contract labour for all services that are of 'regular nature'. A further Supreme Court judgement made an employer using contract labour to perform regular services on the factory premises liable to absorb such labour permanently.
- Employers are always apprehensive about contract labour

They frequently change the personnel / services of contract labour so that

nobody claims for permanent absorption Although no firm would like to use contract labour for its regular work but the legal tangle is such that some services which are not related to the core activities but are of regular nature (such as canteen, gardening, loading-unloading etc.) may be treated as contract labour and firms may be forced to keep such labourers on permanent roll. Due to these issues, the industry expresses disappointment with this act because its provision defeats the purpose of employing contract labour. The implications are as follows:

- Companies use the outside labour to do core/ regular work but don't do any paper work to avoid hassle of their getting a contract worker status. Such workers are low-paid and get no benefits of employment in organized sector.

Challenges of contract labours:

India is ranked at 61st position in the employee-employer relationship, which is far behind other countries like Thailand, Mexico and the Philippines. The Globalisation turns into profit-oriented economies which result in the increasing rate of contract labours all over the world. Every time, the Contract labours are paid almost one-fourth of what permanent employee gets in the same organisation for the same work. Companies pay them only minimum wages for which they are bound by the statutory obligations, the scene is very different when it comes to permanent employee, he enjoys greater packages and benefits sitting on the same seat and doing the same work. In many cases, contract labour is acting as one of the chief solutions to increased problems in industries but because of some loopholes, it has become a problem too. When you look at the history of labour law, a mostly problem arose either because of non-compliance of labour laws effectively or because of wrong implementation and interpretation by the organisations for their own benefits. The Government is also keen to amend the Contract Labour (Regulation and Abolition) Act, 1970 and the proposed changes not only focus on providing equal salaries but it also suggests providing them with all facilities which we are providing to permanent workers. In addition to the improvement, the government should ensure that these laws should be revised after an adequate interval of time and awareness should be spread for the proper implementation of the Act. The fines anyone violates the law. laws are not sufficiently deterrent and rather, it should impose huge fines in case laws are not sufficiently deterrent and rather, it should impose huge fines in case of labour under Indian which anyone posted.

Social Work Intervention:

Social workers, historically, have been and continue to be involved in work to address issues of contract labourers. Social workers are in a unique position to work on the issue of contract workers because of the diversity of practice settings and expertise in clinical practice, group work, policy development and analysis, and community organizing. The profession's commitment to social change calls on the

social work profession to take a leadership role in addressing all public problems.

Awareness and Education:

The social work professional is often the first point of contact for the contract labours. Because social workers constitute the largest professional group providing all secured services.

Prevention and Intervention:

To better ensure appropriate prevention and early intervention efforts, the social work profession must strive to develop and incorporate a comprehensive Expand research effort, including those sponsored by schools of social work, to better define what kinds of prevention–in

Work in communities to define effective prevention–intervention efforts.

Ensure that culturally competent practice is a core component of all prevention and intervention efforts in industrial settings

Include a focus on contract employees in prevention and intervention efforts.

Screening Initiatives/Assessment Issues²²

Screening and assessment conducted by social work professionals and ensures autonomy, self-determination, respect, and safety.

Challenge organizations to develop assessment processes and tools grounded in social work values, including culturally competent practice.

Collect, compile, evaluate, and adapt screening and assessment tools, protocols, and processes that incorporate social work knowledge and values and promote effective services competence.

Public Policy and Social Work Agency Policy

Social workers are often the gatekeepers for clients' gaining access to the legal and social service systems. Policies of the criminal justice system, as well as legislation at the local, state, and national levels, have direct bearing on victims of violence and family members, as well as assailants

Support public policy and laws that focus on empowerment.

Educate policymakers about the link between youth development programming and prevention and early intervention of domestic and sexual violence.

Strive to bring the disciplines together to build on the diversity of the social work profession and enhance collaborations.

Ensure policy that works to strengthen social and independent living skills.

Ensure that both social workers and community-based or grassroots advocates are at the table when policies are being developed.

Conclusion:

Although employment of contract labour in India has attracted debates and raised conflict of interest among the social partners, it has become a significant and

growing form of employment, engaged in different occupations including skilled, semiskilled and unskilled jobs. The system of employing contract labour is prevalent almost in all sectors, in agriculture, manufacturing, and high GDP yielding service sector.¹¹ Liberalisation of market economy in early nineties has necessitated greater flexibility of employment of for the industries to compete in the global perspectives and antediluvian labour laws has forced industries to hire contract labour to address the cyclical demands and creating business friendly compliance mechanism to survive and compete in the globalised economy. Concomitant changes in the Industrial Disputes Act, 1947 would be necessary to reduce reliance on contract labour system.

The contract labour (regulation and abolition) act 1970 provides protection and security to the workers employed on contract. On the one hand, it seeks to provide contract workers minimum wages through licensing of contractors and by holding principal employers accountable for enforcement of the law. On the other hand, it empowers state and central governments to prohibit the conduct of certain kinds of work through contract labour should also help in moving closer to a uniform labour policy on common issues like welfare laws, employee, establishment, minimum wages, appropriate government, protecting labour policy on common issues like welfare laws, employee, establishment, minimum wages, appropriate government, protecting multiplicity. position comes up, while another said no such guarantee can be given by a company because the terms of employment itself talk about a fixed contract

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