CHAPTER-I
INTRODUCTION

Liberalization, Privatization and Globalization (LPG) is the ongoing international economic regime. In July 1991, India also adopted similar economic policy and started making efforts to integrate the Indian economy with the world economy. The main objective of the new economic policy is to create more competitive environment as a means to improve the productivity and efficiency in the economy. Consequently, a number of global business enterprises entered into Indian market. It led to increase in competition, technological advancements, increased efficiency and an overall growth of the national economy. However, with these opportunities, LPG measures have brought some challenges too, particularly for the labour class. The flexible labour strategies adopted by the employers tend to undermine the role of workers in industrial progress. A race to increase the productivity and decrease the cost of production, at any cost, has begun and triggered at that factor of production which is available in abundance i.e. labour. Employers desire for a market-driven labour market governance system free from regulation and state control. The role of the state in economic matters is being redefined. A pro-capital shift in Government’s policies is already implicit. It is increasing the feeling of insecurity and deprivation in the vast majority of working people. The prominent victim has, however, been the ‘Contract Labour’. Need for adequate legal provisions for regulation of contract labour and employment security has been the core issue in the current labour law reform agenda in India.

For the purpose of this research work, the term ‘Contract Labour’ refers to labour engaged through an intermediary for the user enterprise. There is a triangular employment relationship. The party for whom work is performed is known as principal employer or the user enterprise and the relationship between the workers who actually perform the work, and the principal employer is mediated by one or more other parties who actually engage the workers and pay them. These intermediaries are known by different names such as jobbers, employment agencies, labour brokers, contractors, sub-contractors etc. Although the contract labour system has been prevalent all over the world since ages but it is particularly after the
globalization of economies that there has been immense increase in use and abuse of contract labour system.

New trends show that the regular worker is gradually getting substituted by contract labour and future growth in employment in India will be featuring casualisation, contractisation and informalisation of work.\(^1\) In almost all the work places whether in manufacturing, services, trade or agriculture and even in Government administration, the contract workers are employed even in core activities of permanent and perennial in nature. Manufacturing processes are being outsourced in the name of efficiency. To win the battle of supply chains, a system of small and medium scale set-ups with advanced technology and a few labourers purely on contractual terms, is taking place throughout the world and India is not an exception.

Employers have shifted from directly employing temporary workers to employing workers through intermediaries. Employment of labour through intermediaries and establishment of triangular relationships have spread to many countries and grown over the years and it is known in different names in different countries such as temping, contract workers, agency workers, labour dispatch workers, labour brokers and so on\(^2\). The strategy to shift away from the ‘regular job’ has taken many forms, for example, long probationary and training periods, numerous fixed term contracts (known as ‘permatemps’), change of contractors, terminations before the permanency threshold to start from zero again, sham contracts and contractors’ subcontracting and so on\(^3\). The principal employer disowns the agency workers. This and the numerous shifts away to disposal jobs have created a ‘void’ in the sense that there is no identifiable and definite employer and the existence of employment relationship\(^4\). Existence of employment relationship is the basis of labour jurisprudence which is gradually, being dismantled. This is a challenging situation for all those who are concerned with legal rights at workplace whether workers, unionists, lawyers, judges, economists, constitutionalists, welfarists, academicians and the

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4. Ibid.
society at large. The real objective of employers behind these strategies is to escape the liabilities and accountabilities arising out of application of labour legislations.

Various studies show difference in wage rates, hours of work, holiday and social security between the regular and contract labour even in the cases where contract labour is performing same work or work of similar kind. Many of the fringe benefits like provident fund, sickness insurance, gratuity, and privilege leave with pay and so on, are not available to contract workers even if they work for years on the same job for the same employer. On the whole, conditions of service of contract workers are substantially poorer as compared to regular employees. Because of non-regular system of employment, uncertainty of tenure, frequent changes in the contracts and contractors, lack of proper employment records and such other factors, contract workers find it extremely difficult to get organized in strong trade unions. Thus, there is a great need to prevent this disguised exploitation of contract labour through state intervention.

Due to lack of unionization, contract workers are not able to bargain with the contractors for wages and other benefits. They have to accept the conditions set by the contractors and if they do not do so, they lose their jobs. It is also seen that sometimes the principal employer is not aware of this situation and is unable to help them. Labour supervision is poor. There have been many incidents of industrial violence in the last few years namely in auto industry, iron and steel industry, coal mines and some other industries in private as well as public sector. The violence that took place in the Manesar plant of Maruti Suzuki should be condemned but also the reasons must be probed into as to why the workers behaved in a ghastly manner. The issue of the violence was all about the contract labour and the disparity with the employers. Though it cannot be said that the woes of the workers were above the cause for such violence, however, the contract labour should at all stages, be regulated and their demands should be given due consideration as they are deprived of many benefits that regular employees receive.

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6 Ibid.
7 Ibid.
9 Ibid.
The low cost labour flexibility strategies have rendered workplaces unsafe\(^{10}\). While official statistics on industrial accidents in India are incomplete and unreliable, press reports and surveys indicate that they are wide spread, often fatal and it is not a coincidence that accidents are high among untrained contract workers who are not provided adequate safety gear\(^{11}\). The Labour Minister of Karnataka has admitted that roughly 75 percent of the industrial accidents in his state relate to contract workers.\(^{12}\) Bhilai Steel Plant Workers Union stated that unskilled workers are hired on contractual terms and they do not have proper knowledge and expertise of safety equipments. Six people died due to poisonous gas leak in Bhilai Steel Plant in Chhattisgarh on June 6, 2014.

The construction industry, railways, ports and docks, Public Works Department, petroleum and chemical, textile, metal industries, storage and where housing, rubber and leather industries, sanitary services, security services, banks and insurance companies are prone to contract labour system although all branches of industrial and service sectors are nowadays resorting to this system including health and education. The occupations on which the contract labour is employed range from purely unskilled work categories as loader, unloader, cleaner, sweeper and khalasi to skilled employment as polisher, turner, gas cutters and riveter in oil distribution and driller, blaster, blacksmith, carpenter and fitter in the mining industry\(^{13}\). Apart from this, there are certain regular processes, such as nickel polishing and electroplating in engineering establishments, dyeing, bleaching and printing in some units in textile and designing and raising work in almost all carpet manufacturing units, where contract labour is common\(^{14}\). In sports goods manufacturing industry, the work of stitching of inflatable balls and bags, badminton gutting, soft toys, making of bats and hockey sticks etc. is done by contract workers.

### 1.1 LABOUR MARKET SCENARIO IN INDIA

To understand the magnitude and vastness of the problem of exploitation of contract labour, an analysis of the labour market scenario is imperative. The 68th round of NSSO survey of employment shows that during 2009 to 2012, the overall...
labour force expanded by 10 million. Workers of the unorganized sector constitute close to 94 per cent of the entire workforce. It means only 6 per cent of the total workers in India are covered by the protection of labour laws. A huge number of contract labourers work in unorganized sector and therefore, are out of the reach of labour law. Only a small number of contract labourers can seek the protection of labour laws who work in organized sector only. At all India level, 48.2 per cent persons are estimated to be self employed, 17.4 per cent under regular wage or salary and rest of 34.4 per cent are contract workers and casual labourers.\textsuperscript{15} The trend is that the casual labourers or daily wagers are also resorting to contractors for employment.

In public sector units, of both the centre and the states, the proportion of contract and temporary workers has already crossed 50 per cent mark on the average. In private sector establishments, the situation is all the more alarming. In the establishments, particularly, those emerged after the initiations of the policy of globalization in 1991, overwhelming majority of the workers are employed on contract of various forms and nomenclatures. Interestingly, the number of contract workers working under licensed contractors has been declining throughout the country although the contract employment is increasing sharply all around. This means that the majority of contractors or sub-contractors are eroding all legal scrutiny by the labour law enforcement machinery.\textsuperscript{16}

Situation is more alarming as far as the future employment is concerned. The report Of the Third Annual Employment and Unemployment Survey Report 2012-13 released by Labour Bureau, Ministry of Labour and Employment, reveals that Labour Force Participation Rate (LFPR)\textsuperscript{17} overall at all India basis is 50.9 with breakup of the male LFPR as 76.6 percent and female LFPR as 22.6 per cent\textsuperscript{18}. It means out of every 100 person only 50 persons are workers. It shows high dependency ratio in India. The LFPR in China is about 74 per cent\textsuperscript{19}. With increased young population the

\begin{footnotesize}
\begin{itemize}
  \item Labour Bureau, Report: Third Annual Employment and Unemployment Survey (Ministry of Labour and Employment, 2013) 3.
  \item Sanjay Upadhyaya. Policy and Law on Contract Labour in India (New Delhi: Thomson Reuters, 2013) 1.
  \item The Labour Force Participation Rate is a measure of the proportion of a country’s working age population that engages actively in the labour market, either by working or looking for work. It provides an indication of the relative size of the supply of labour available to engage in the production of goods and services.
  \item Labour Bureau, Report: Third Annual Employment and Unemployment Survey (Ministry of Labour and Employment, 2013) 3.
  \item Ibid.
\end{itemize}
\end{footnotesize}
The demographic dividend we are talking about is going to be a big challenge for India in coming 10 to 20 years as we are already struggling with the jobless growth syndrome with high 4.7 percent Unemployment Rate. It is said that employment generation is going to be high on the agenda of the Government. It needs huge capital investments including foreign direct investments. Therefore, a pro-capital shift in economic policies of the Government is already implicit. Surplus labour supply in the labour market has placed the employers in an advantageous position. In future, it will be much easier for the employers and contractors to impose unfair conditions of service as people will like to, at least, have a job instead of being unemployed. The low LFPR of women is expected to rise in future as more and more women are getting educated. It is this factor which will add to the great pressure on labour market. Women are more likely to accept contract jobs even at low remunerations, as in India, the breadwinning responsibility is still on the males and women are expected to integrate the family responsibilities with the job requirements.

All most similar kind of inferences can be drawn from the data showing Work Population Ratio which is 48.5 per cent at the all India level with break up as rural 50.5 per cent, urban 43.5 per cent, male 73.5 per cent and those of females it is 20.9 per cent. Work Population Ratio is the measure of the proportion of a country’s actually working population.

It is clear that a careful and rational analysis of the phenomenon is required taking into account various dimensions of the problem. Future model of employment is complex and does not seem to be favouring the labour.

1.2 CONTRACT LABOUR- CONCEPT, SCOPE AND DIMENSIONS

The term ‘contract labour’ is used to denote different kinds of employment relationships, yet certainly other than the regular employments based on a direct, definite and identifiable employer-employee relationship. The term has no internationally accepted delineation and this lack of conceptual clarity generates contradictory interpretations and inhibits the development of an appropriate protection mechanism for the workers involved.

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20 Ibid.
The labour may be engaged by an employer either by direct recruitment or through an intermediary. In first case i.e. direct recruitment, the employee may be engaged on regular basis or for a fixed term or for a particular project purely on contractual terms, nonetheless, he or she is the employee of the employer and employment relationship is governed by the rules of the employer’s enterprise enacted in line with the spirit of the labour legislations of the place in general, if it is a regular appointment, and by the contract of service, in case of contractual appointment, howsoever in all cases, subject to the provisions of the Constitution. The second method of engagement of labour is through the intermediaries known by different names such as contractors, jobbers, employment agencies, labour brokers etc. In such cases, three parties are involved—a principal employer (user enterprise) for whom the work is performed, the intermediary who engages labour to produce a given result for principal employer and the labour who actually performs such work. There is a triangular employment relationship. It is in this context, the term ‘contract labour’ is widely used, though with many variants. However, broadly they may be categorized under two heads—

1. **Labour Contracts or Labour-Only-Contracting**—In this type of arrangements, the intermediary supplies labour to principal employer. Generally such labour works at the site of and under the supervision and control of principal employer. However, the workers have no direct relationship with the principal employer. The workers are the workers of the intermediary and remuneration is paid by such intermediary.

2. **Service Contracts or Job Contracting**—When the intermediary undertakes to produce a given result to the principal employer in the form of a service rather than mere supply of labour is known as service contract or job contracting. Service contracts further may be of two types. First purely commercial contracts where two business firms come together and one promises to supply goods or service to the other independently created by his personal skill and tools. The supplier of such goods or service is not solely dependent on the user enterprises for its livelihood. The workers employed by such supplier are his workers and they have nothing to do with the user enterprise. This kind of business arrangements are governed by the commercial legislations. The
second type of job contracts includes the arrangements where work is performed by individual contractors or sub-contractors whose relationship with the user enterprise differs from that existing between truly independent businesses\textsuperscript{22}. The work is actually done by the labourers engaged by such contractor. Such individual workers may normally carry out certain work or services for the same user enterprise on a permanent or periodical basis and are, to a certain extent, economically dependent on it\textsuperscript{23}. The user companies may also exercise control over the performance of services and in spite of their formal independence, the individual workers actually have a status which is very close to that of a traditional employment\textsuperscript{24}. It is this kind of arrangements which are covered under the concept of contract labour and need specific labour legislation.

Thus, the term ‘contract labour’ is used to denote both labour-only-contracting as well as job-contracting and therefore, becomes ambiguous and difficult to define. For example, sometimes, job contracting is carried out at the site of the principal employer with the raw material and tools provided by him and sometimes work is performed in the premises of the contractors but under the strict supervision and control of the principal employer. This confusion still persists and the interpretations of various courts may vary in individual circumstances. However, on the whole, it can be said that there is no direct employer-employee relationship between the labour and the user enterprise but mediated by one or more parties who actually engage such labour and pay remuneration to them.

The International Labour Organization has defined contract labour as, “For the purpose of the proposed convention the term ‘contract labour’ should mean work performed for a natural or legal person (referred to as a ‘user enterprise’) by a person (referred to as a ‘contract worker’), pursuant to a contractual agreement other than a contract of employment with the user enterprise, under actual conditions of dependency or subordination to the user enterprise, where those conditions are similar

\textsuperscript{23} Ibid.
\textsuperscript{24} Ibid.
to those that characterize an employment relationship under natural law and practice”.

The Contract Labour (Regulation and Abolition) Act, 1970 defines contract labour as, “A workman shall be deemed to be employed as contract labour in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer”.

Thus, it can be concluded that presence of an intermediary between the user enterprise and the actual labour, a degree of the labour’s dependency on or subordination to the user enterprise and yet, no direct employer-employee relationship between them are the core characteristics of the contract labour system. The scope of the present research work is confined to such kind of employment relationships only.

1.3 REASONS FOR ENGAGEMENT OF CONTRACT LABOUR

The pro-reformists and employers’ associations demand rationalization of labour laws in India. Among others, they insist on allowing free hand to the entrepreneurs to hire and fire human resource as and when the business needs it. Employment security measures should be done away with. Labour should be available on contract basis, at lowest possible wages and without any commitment to their social security. Following are the major reasons of the immense increase in engagement of contract labour-

1. Contract labour system helps to absorb the ever increasing population pressure on the labour market by creating new employment opportunities such as short term or fixed term work assignments and allied services to the main business activities.

2. It makes the availability of labour easy and flexible. It helps the employer to terminate the services of the labour as per the requirements of the business to sustain competitiveness.

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26 Section 2(1)(b) of the Contract Labour (Regulation and Abolition) Act, 1970.
3. It helps to keep the wage bills low.

4. It enables the employers to avoid their accountabilities under the different labour legislations such as compensation for lay-offs and retrenchments and social security schemes as contract workers are not practically accessible to these benefits, the claim for which is generally based on long term employer-employee relationship.

5. It keeps the overhead costs low and relieves the employer from maintaining a big centralized establishment. The employers can avail the benefits of specialization.

6. Contract workers do not unite to fight for their causes. They are usually standing in competition with each other. They are often afraid of losing jobs. It weakens the labour solidarity in general. Employers justify it saying that it avoids industrial unrest and consequential losses.

7. The unwillingness to perform less skilled jobs on the part of educated youth is also said to be a reason for the increase in contract labour system.

8. Migration of people to developing regions is also one of the causes of increase in contract labour. Migrants put extra pressure on the labour market in industrial sector to the disadvantage of the local labour.

9. The efficiency of contract labourers is claimed to be higher than regular workers who are usually ill motivated to show excellence at work. Insecurity of employment is deemed to promote work culture.

10. The failure of public sector and less motivation of Government employees for work has led to increased use of contract workers in Government departments and public undertakings. It encourages the unrestricted use and abuse of contract labour in private enterprises. It is also one of the major reasons why the Government is reluctant to amend the labour laws to protect contract labour as it itself employs contract labour at a very large scale.
1.4 PROBLEMS OF CONTRACT LABOURERS

Problems of contract workers are quite peculiar ones because there is a triangular employment relationship. The basis to establish labour rights is the employer-employee relationship which is a quite complex phenomenon in case of contract labour. Some of the problems which are categorically faced by contract workers are as under-

1. **Inadequate Remuneration:** Various studies have revealed that contract labourers are not paid even the minimum wages fixed under the Minimum Wages Act, 1948. No Value added Dearness Allowance (VDA) is paid to contract workers. VDA represents the rise in cost of living index numbers. Contract workers are less educated and unaware about their rights to minimum wages and contractors in connivance with principal employers, take benefit of this situation.

2. **Discrimination at Workplace:** The workers having permanent status receive much higher wages, allowances and amenities than the contract workers doing the very same work. Reports of various Standing Labour Committees, Tripartite Committees and research works have expressed deep concern over this issue. A difference of wages, working conditions and other amenities between regular and contract workers weakens the labour solidarity at workplace.

3. **Inadequate Social Security Provisions:** Social security systems provide for basic income in case of unemployment, illness and injury, old age and retirement, invalidity, family responsibilities such as pregnancy and childcare, and loss of the family breadwinner. Art 41 of the Constitution of India directs the state to provide public assistance to its citizens in case of unemployment, old age, sickness and disablement within the limits of its economic capacity and development. Social security benefits are important not only for individual workers and their families but also for their communities as a whole providing health care; income security and social

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28 Ibid.
welfare enhance productivity and contributes to the development of the country. The provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, The Employees State Insurance Act, 1948 and The Employees Compensation Act, 2010 are applicable to workers employed through contractors but in practice, no such contributions are being paid by employers. Many a times, deductions are made from the wages for contribution to social security schemes but they are not deposited into the social security account of labourers. Poor and illiterate contract workers are not provided with any account number in their names. They are unaware of their rights under social security legislations.

4. **Poor Working Conditions:** The definition of "worker" under section 2 (1) of the Factories Act, 1948 includes workers employed by or through an agency (including a contractor) with or without the knowledge of the principal employer. Therefore, contract workers are also entitled to all the benefits available to workers under the Factories Act, 1948 including those relating to weekly holidays, overtime wages, compensatory holidays, leave with wages etc. But in practice, the working conditions of contract workers are poor. They are not given any paid holidays. The working conditions at the site of contractor's premises are quite unsatisfactory.

5. **Lack of Judicial Access:** Under the Contract Labour (Regulation and Abolition) Act, 1970, majority of the powers are vested with the executive organ of the Government. Appropriate Government is empowered to fix minimum wages, issue licenses to principal employers and contractors and abolition of contract labour in certain circumstances, and to ensure implementation of the Act through Labour Commissioners. The contract workers are left on the mercy of executive action. Until and unless some fundamental questions are raised in the dispute such as when the contract between the contractor and principal employer is bogus one, contract workers cannot seek any judicial remedy in the ordinary courts of law or labour courts under the Industrial Disputes Act, 1947.

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In addition to the above stated problems, various other typical problems are faced by migrant workers, women workers and their children due to poor implementation of the Act. There is lack of sincerity on the part of the industrial relations machinery and policy makers in ensuring compliance of the barest minimum of the legislation.

1.5 LEGAL PROTECTION TO CONTRACT LABOUR IN INDIA

The legislature of India had a vigilant eye on the matter when it went on to enact the first regulation on contract labour named as Contract Labour (Regulation and Abolition) Act, 1970. This enactment is still the key legislation regulating contract labour in India.

1.5.1 The Contract Labour (Regulation and Abolition) Act, 1970

The Contract Labour (Regulation and Abolition) Act 1970 (hereinafter named as the Act) has been exclusively passed to protect and safeguard the interests of contract labourers in India. A contract labourer is defined in the Act as one who is hired in or in connection with the work of an establishment by or through a contractor, with or without the knowledge of principal employer.30 A principal employer is the person who has authorized control over the establishment whereas a contractor is a person who procures labour for the user enterprise and includes a sub-contractor. Contract labour system covered under the Act includes both labour contracts as well as job contracts.

1.5.1.1 Objects of the Act

As per the object clause of the Act, this is an Act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith. It is clear that the legislature did not feel it expedient to completely do away with contract labour, since there are several fields of employments where engagement of contract labour becomes necessary in the interest of the industry. The Act seeks to fulfill the following objectives-

1. Affording security to the labourers in consonance with the objectives of a socialist economic model.

30 Section 2(1) (b) of the Contract Labour (Regulation and Abolition) Act, 1970.
2. Affording equal treatment and security to all labourers, be it employees of an industry or contract labourers.

3. Curbing of exploitation of contract labourers

1.5.1.2 Salient Features of the Act

Following are some important features of the Act-

1. The Act has been enacted to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances. Thus, the Act does not provide for absolute prohibition on contract labour system rather it retains the system with some regulations.

2. The Act is applicable to every establishment in which twenty or more workmen are employed or were employed on any day of preceding twelve months as contract labour. Every contractor who employs or who employed on any day of the preceding twelve months, twenty or more contract workers, is subject to the provisions of this Act. This Act is not applicable if the work is of casual or intermittent nature unless the work in case of intermittent nature is performed for more than one hundred and twenty days in the preceding twelve months or if the work is of seasonal character and is performed for more than sixty days in a year.

3. The Act provides for the setting up of Central Advisory Contract Labour Board by the Central Government in Central sphere and State Advisory Contract Labour Board by the State Governments to advice upon the matters arising out of the administration of the Act.

4. The principal employer is required to be registered and the contractor is required to have license in order to execute any work through contract workers, as provided under the Act. The work undertaken to be done must be under and in accordance with the conditions of license, for example, conditions relating to fixation of wages, hours of work and other facilities and amenities prescribed by the Rules made under the Act.

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5. There are certain welfare provisions in the Act and the Central Rules made there under regarding the provisions of canteens, restrooms, sufficient drinking water supply, latrines and urinals, washing facilities and first aid facilities for the contract workers. The primary duty is cast upon the contractor and in case of default; the principal employer is liable to provide the same.

6. Wages are required to be disbursed by the contractor in the presence of the authorized representative of the principal employer. If the contractor fails to pay wages either in part or in full, the principal employer is liable to pay the same. Same wages and service conditions will be applicable to contract worker as well as regular worker in case same or similar kind of work is performed.

7. The penal provision for the employment of contract labour in contravention of the provisions of the Act provides for punishment of imprisonment for a term extendable up to 3 months or fine up to a maximum of one thousand rupees or both.

8. Apart from the regulatory provisions, section 10 of the Act enables the Appropriate Government to prohibit employment of contract labour, by notification, in any establishment or in any process, operation or other work. Before issuing such notification, consultation is to be done with the respective Advisory Board. Sub-section (2) of section 10 provides necessary guidelines in this regard. The appropriate Government should decide upon the matter after taking following guidelines into account-

1. Whether the work is incidental or necessary for the work of an establishment?

2. Whether the work is sufficient to employ a considerable number of whole time workmen?

3. Whether the work is being done ordinarily through regular workmen in that establishment or in a similar establishment?

4. Conditions of work and benefits provided to the contract labour where the work is of perennial nature.
There are Central Rules named as the Contract Labour (Regulation and Abolition) Central Rules, 1971 and state level rules, for example, in Punjab, The Punjab Contract Labour (Regulation and Abolition) Rules, 1973. These Rules further clarify the provisions of the Act and thereby help in safeguarding interests of contract workers. There are some other labour laws which are applicable to contract labourers also, such as, Employees Provident Funds and Miscellaneous Provisions Act, 1952, Employees State Insurance Act, 1948, Employees Compensation Act, 2010, The Minimum Wages Act, 1948, the Factories Act, 1948 and to some extent the Industrial Disputes Act, 1947 also.

In the case of Standard Vacuum Refining Company v. Its Workmen\textsuperscript{32}, the guidelines issued by the honorable Supreme Court emphasized on special attention to the problems of contract labourers. The issue in the case was with regard to an award of the Industrial Tribunal which was in favour of workmen considering demand made by the union for abolition of contractual system of work, cleaning and maintenance of machinery. Employer challenged the award raising issues whether such dispute constitutes an Industrial Dispute under section 2 (k) of The Industrial Disputes Act, 1947 and justifiability of the tribunal in interfering with the management's rights. The Supreme Court, negating the contentions of the employer, observed that contract labour system is primitive and baneful. The Court directed the company to discontinue the practice of contract labour and to have the work done through workmen engaged by it.

After the enactment of Contract Labour (Regulation and Abolition) Act, 1970, the courts used to make orders for the abolition of contract labour but not any specific relief was granted in favour of the contract labourers. In Gujrat Electricity Board v. Hind Mazdoor Sabha and Others\textsuperscript{33}, Supreme Court held that it is only the Appropriate Government to decide whether the system of contract labour should be abolished or not. The Act is silent on the issue of status of workman after the abolition of contract labour system in an establishment i.e. whether it will amount to automatic absorption of the already working contract labourers or it will have the effect of throwing them away from the workplace. In the case of Air India Statutory Corporation v. United

\textsuperscript{32} AIR 1961 SC 895.

\textsuperscript{33} AIR 1995 SC 1893.
Supreme Court clearly ordered in favour of automatic absorption of contract labour on abolition of contract labour system under section 10 and held that contract workers can avail of the remedy under Art.226 of the Constitution also. Thus, a writ or an order may be passed by a High Court or the Supreme Court to direct the employer to absorb or re-employ the already working contract labourers in preference to the new applicants.

The doors of judiciary which were opened in Air India Case were shut down in The Steel Authority of India Ltd. v. National Union for Waterfront Workers. Supreme Court overruled the judgment of Air India Case and prospectively held that there cannot be any automatic absorption of the workmen of the contractor if the contract labour system is abolished. Afterwards in Cipla Ltd v. Maharashtra General Kamgar, Court denied relief on the ground that employer-employee relationship could not be established. Employer-employee relationship is quite difficult to prove in contractual employments entered by or through contractors.

The Contract Labour (Regulation and Abolition) Act, 1970 and the Central Rules made there under have been in force for more than four decades but the conditions of contract labourers are becoming worse to worst in the changed economic realities. The Act has failed to achieve its desired objectives. Even the interpretation of its provisions by the Supreme Court and various High Courts are now being used for purposes contrary to the objectives of the Act. Its implementation has not been satisfactory.

1.5.1.3 Enforcement Setbacks

A Central Industrial Relations Machinery (CIRM) has been established under the Chairmanship of the Chief Central Labour Commissioner in the central sphere. Similar institutional set up exists in states too. The task of implementation of the provisions of the Act has been entrusted to this machinery but all these measures are quite deficient and unable to protect the interests of contract workers. There are frequent allegations against these implementing agencies that they are indulged in corruptive practices and often act in collusion with the employers. Jurisdiction to

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34 1997 (9) SCC 377.
36 2001 CLR 1754 SC.
tackle all the matters under the Act has been entrusted to Appropriate Government. The utility and propriety of welfare legislation lies in their effective implementation. Following data shows the efficiency of the Government agencies and the resulting scenario in respect of the implementation of the Act.

**Enforcement of Contract Labour (Regulation and Abolition) Act, 1970**

**Table-1**

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<th>Sr. No.</th>
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<td>Number of registration certificates issued to principal employers</td>
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<td>Number of licenses issued to contractors</td>
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<td>10389</td>
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<td>3.</td>
<td>Number of inspections conducted</td>
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<td>6925</td>
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<td>Number of irregularities detected</td>
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<td>5.</td>
<td>Number of prosecutions launched</td>
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<td>3573</td>
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<td>Number of convictions</td>
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<td>Number of licenses revoked/cancelled</td>
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</tbody>
</table>


So far, 76 notifications have been issued under section 10 of the Act abolishing employment of contract labour in specified establishment in consultation with the Central Advisory Contract Labour Board. 15 notifications have been issued under Section 31 of the Act granting exemption to establishments from the purview of the Act. A tripartite group has been constituted as per decision taken in the 42nd session of Indian Labour Conference (ILC) held on 20-21 February, 2009. The Group is to revisit the provisions of the Act in order to protect the interests of workers.$^{38}$


A study of The V.V.Giri National Labour Institute also reveals that the Government employs contract labour at large scale. A recast of the laws to give contract labour the same benefits as the regular worker doing the same work will cost the Government Rs.11,000 crores annually against Rs.5,500 crores for private firms\textsuperscript{39}. This study is still under consideration of the Government. The report of the 35th Standing Committee on Labour reveals that during the study visits of the committee to different places all over India, while having interaction with Public Sector Undertakings (PSUs), The Committee noticed that they have outsourced even the perennial nature of jobs which otherwise are to be prohibited under the Contract Labour (Regulation and Abolition) Act, 1970. On being asked about the steps taken by the Ministry of Labour and Employment to prevent such tendencies by PSUs, the Ministry informed that several works of PSUs are done through outsourcing and at present, the licensed contract workers in the PSUs are approximately 18, 44, 224\textsuperscript{40}. The actual figure of outsourced contract labour in the Central sphere would be even more as it excludes the workers of contractors employing less than 20 workers.

The details of violation under Section 10(1) of Contract Labour (Regulation & Abolition), Act, 1970 in the Central sphere establishments during the years 2010-11, 2011-12, 2012-13 is as under:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Inspections Conducted</th>
<th>Number of Prosecutions Filed in Court</th>
<th>Number of Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>24</td>
<td>18</td>
<td>-</td>
</tr>
<tr>
<td>2011-12</td>
<td>15</td>
<td>20</td>
<td>01</td>
</tr>
<tr>
<td>2012-13</td>
<td>54</td>
<td>47</td>
<td>01</td>
</tr>
</tbody>
</table>

Source: Report of 35th Standing Committee on Labour, April 2013.\textsuperscript{41}

Thus, it is apparently clear from the above stated facts and figures that implementation of the Act is poor. All the social partners have expressed deep concern over this scenario.


\textsuperscript{40} Retrieved from www.labour.nic.in/upload/upload files/files/Reports/Annual Report 2010-2011. pdf visited on 15-4-2014 at 5.15 pm.

\textsuperscript{41} Retrieved from Labour.nic.in/upload/upload files/files/Reports/Annual Report 2010-2011. pdf visited on 15-4-2014 at 5.15 pm.
The reform strategy of the Government with respect to contract labour consisted of three components; One, the Central Government has sought to create a climate of public opinion conducive for introducing labour reforms via pro-reform policy pronouncements and appointing independent commissions and tripartite committee on contract labour; Two, it would hold ‘social dialogue’ with trade unions and the employers’ organizations in various forums like the Indian Labour Conference and three; it would shift labour reform responsibility on to the State Governments.

So far as the betterment of the conditions of contract labour is concerned, the outcome of the whole exercise has not been satisfactory. There is a pressing need to amend the Contract Labour (Regulation and Abolition) Act, 1970. Almost all the major trade unions have stressed upon the need to amend the Act. The matter has been particularly discussed in 42nd, 43rd and 44th sessions of Indian Labour Conference. But the proposal for the amendments suggested by the unions has been repeatedly opposed by employers. Employers believe that the kind of amendments suggested by the trade unions is detrimental to efficiency and competitiveness of Indian trade and industry. Thus, the deadlock remains.

It is often argued that more analytical and empirical research needs to be done on the issues of contract labour. Thus, it is in the light of these facts and circumstances that this research work has been undertaken to bring forth the problems of contract labourers. A detailed review of provisions of existing legislations and judicial interpretations has been done. An empirical research has been conducted in the Sports Goods Manufacturing Industry of Jalandhar district of the state of Punjab. On the basis of analysis of primary as well as secondary data, some suggestions have been put forth for suitable amendments to Contract Labour (Regulation and Abolition) Act, 1970 and related Rules.

1.6 REGULATION OF CONTRACT LABOUR: A HISTORICAL PERSPECTIVE

Before moving ahead, a look at the historical development will better help to understand the problem in hand. The evolutionary efforts to regulate the conditions of contract labour in India began in 1959 in the form of an Act which failed to address the basic issues. The much-needed amendments and improvements were incorporated in the 1970 Act. This Act was later amended in 1986 and 1996. The amendments in the 1970 Act provided for the registration of contractors, framing of rules and regulations, and setting up of a committee to keep a check on the activities of contractors. The amendments in 1986 extended the coverage of the Act to include the contract labour involved in the construction industry, while the amendments in 1996 provided for the establishment of a tripartite committee to oversee the implementation of the Act.

contract labour can be explained on the basis of two phases of time i.e. pre-independence era and post-independence era.

1.6.1 Legal Protection in Pre-Independence Era

Beginning from the early colonial period, but especially after the abolition of slavery in 1834, Indian labour was mobilized for performing service in the tropical plantations of British Empire. Simultaneously large scale labour mobilization was necessitated within India with the emergence of plantation crops like indigo and tea for exports and with the rapid expansion of exports, the labour needs also expanded tremendously. A key feature of this relatively new form of labour movement was the use of the indenture contract to regulate the recruitment and deployment of labour and, by all accounts, indenture contract employment was perhaps the first “formal” contractual employment to which the Indians were exposed to in the modern era. Indenture contract was a peculiar species of employment contract by which the employer, in return for defraying a part or whole of the cost of transportation of labour across long distances were guaranteed long services for a specified period, usually five years at contractually fixed wages and performance of labour was ensured by penal sanctions against breaches of contractual provisions. However, this system of indenture contract was abolished in 1915 due to nationalist pressure. In due course, this system was replaced by ‘Kamgani’ system under which an agent of the employer goes and selects the labourers for a short period till the completion of the work. The workers are hired for a period where the work is provided for a stipulated period of time and since the contracts were verbal, the labourers were exposed to all types of exploitation.

It was the principle of Laissez Fair which dominated employment conditions till 1860. Section 490 and 492 of the newly enacted Indian Penal Code 1860 were frequently resorted to prosecute the defaulting labourers. In 1863, the Workman’s Breach of Contract Act, 1859 was extended to Assam which allowed the planters to

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44 Ibid.
45 Ibid.
46 Ibid.
48 Ibid.
prosecute deserting workers who had received an advance. Besides, two enquiry commissions were set up in 1881 and 1882 which resulted into enactment of Inland Emigration Act, 1882, Assam Labour and Emigration Act, 1901 and Madras Plantation Labour Act, 1903, but the system of contract labour rather increased in other industries too like mining, central public works department ports and docks, cement and engineering. 49

In 1926, Indian Terrif Board, on the basis of complaint of Bombay Textile Labour Union recommended that all labour should be recruited directly by officer in charge of industry and not by “Jobbers”. Jobbers here mean contractors. Britishers were aware of the identity clashes amongst Indians on the basis of caste, creed gender etc., therefore they usually resorted to middleman i.e. “Jobbers”, now known as contractors, to secure adequate labour supply.

1.6.1.1 Royal Commission, 1929

A Royal Commission, also known as Whitely Commission, was set up to enquire upon all the aspects of labour in India. The Commission, in its report, considered the crucial existence of “Jobber” and recommended certain measures to reduce the influence of Jobber. The Commission observed:

“The present power of the jobber is given by the employer who permits him to select or engage labour and to influence or procure its dismissal. We advocate for all factories the exclusions of jobbers from the employment and dismissal of labour. This can best be achieved by the employment of labour officer. He should be subordinate to no one except the general manager of the factory and should be carefully selected. No employee should be engaged except by the labour officer personally and in consultation with the departmental heads and none should be dismissed without his consent except by the manager himself after hearing what the labour officer has to say. It should be business of the labour officer to ensure that no employee is discharged without adequate cause”. 50 The Royal Commission recommended for abolition of contract labour in all sectors except Public Works Department, railways, ports and docks.

1.6.1.2 The Bombay Textile Labour Enquiry Committee, 1937

The Committee recommended for abolition of contract labour system in mills and stated that workers should be recruited directly by mill owners. It firmly stated that the workers are exploited by contract labour system. The managers of the factory should directly take over the responsibility of the welfare of labour\(^{51}\).

1.6.1.3 The Bihar Labour Enquiry Committee, 1938

Under the chairmanship of Dr. Rajindra Prasad, this committee also severely condemned the practice of contract labour stating that contract labourers are exploited by contractors who have no moral obligations towards workers. The factory owners would be more motivated to ensure the well being of the workers\(^{52}\).

1.6.1.4 The Rege Committee, 1946

The Committee recognized the need for contract labour yet urged for its abolition where it was possible and recommended for regulating the conditions of service where its continuance was unavoidable.\(^{53}\)

Despite of the recommendations of the various committees and commissions for its abolition, the system of contract labour continued to prevail in various sectors of the economy prominently Public Works Department, ports and docks, railways and plantation. Second World War had a great impact on the industries and trade throughout the world including India. A large number of workers were placed into adverse situation. The issues of re-employment, minimum wages and dignity of labour and basic rights at work came at the forefront of the debates at international level. Meanwhile, India got Independence from the British imperialism and a new era began in which the respect for the principle of dignity of labour found place in the supreme law of the country.

1.6.2 Legal Protection to Contract Labour in Post-Independence Era

The evolutionary journey of the legislation for the protection of the interests of contract labour in the post independence era begins with the enactment of the Constitution of India.

\(^{52}\) Report: Bihar Labour Enquiry Committee, 1938.
1.6.2.1 The Constitution of India

It is after independence and commencement of the constitution of India that labour issues got significant attention. A process of public sector industrialization started in India. A large number of people began to work in industries. Labour policy was formulated and enforced in the form of various labour legislations. Indian labour policy and labour law acquired strength from Constitution which, in its preamble, describes our country as a Sovereign, Socialist, Secular, and Democratic Republic and seeks to secure to all its citizens, justice, liberty and equality of status and income. The Constitution lays foundation for protection of labour through state intervention. Part III of the Constitution contains Fundamental Rights guaranteed to the citizens against the State. Some of these Fundamental Rights are specifically relevant for working people such as the right to equality before law and equal protection of laws (Art.14), the right to prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Art.15), equality of opportunity in matters of public employment (Art.16), freedom of speech and expression (Art.19(1)(a)), freedom to assemble peacefully and without arms (Art.19(1)(b)), freedom to form associations and unions (Art.19(1)(c)), protection of life and personal liberty (Art.21), prohibition of trafficking in human beings and forced labour (Art.23), prohibition of employment of children in hazardous processes (Art.24) and the right to constitutional remedies (Art.32). It is, however, important to note that these Fundamental Rights are available against the state as defined in Art.12 and not against private enterprises in which millions of contract workers are employed.

Directive Principles lay down a comprehensive national program for the governance of the country. Though, they are not enforceable in the court of law but necessarily fundamental in the formulation of policies and enactment of laws. Art 38 and 39 require the state to strive for justice and equality and to minimize inequalities of wealth, status, opportunity, to ensure equal distribution of wealth and special assistance to women, children and workers. Art 42 requires the state to make provisions for securing just and humane conditions of work and for maternity relief. Art. 43 requires the state to endeavor to secure to all workers a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities. Art. 43-A provides for workers’ participation in management and Art. 46 requires for promotion of educational and economic interests
of weaker sections. These articles are in fact the values showing the beliefs and aspirations of national freedom struggle and require the state to intervene and protect the oppressed and vulnerable.

1.6.2.2 Suggestions of Second Planning Commission, 1956

The five year plans eulogize labour by defining worker as the principal instrument in the fulfillment of plan and achievement of the economic progress generally and the planning process has stressed that basic needs of the worker for food, shelter must be satisfied. He should also enjoy improved health services, social security, better education opportunities and increased recreational and cultural facilities. The action plan of the Second Five Year Plan (1956-61) stressed upon a systematic approach to solve the issues and problems of contract labour. It was recommended to undertake studies and examine working conditions of contract labourers. It provided for gradual abolition of contract labour wherever feasible.

1.6.2.3 The Case of Standard Vacuum Refining Company

In Standard Vacuum Refining Company v. Their Workmen, the honorable Supreme Court gave a landmark judgment in relation to protection of interests of contract workers. The Court issued important guidelines and laid down certain criterion in respect of certain type of work in which contract labour should be abolished. Afterwards, this judgment came out to be one of the most inspiring factors which led to the enactment of The Contract Labour (Regulation & Abolition) Act, 1970.

1.6.2.4 The First National Commission on Labour, 1969

The Commission submitted its report recording the findings that contract labour system was functioning with advantage to the employer and disadvantage to the contract labour and recommended that it should be abolished. Indeed, the National Commission which was chaired by justice P B Gajendragadkar, who was a party to the judgment of the Supreme Court in Standard Vacuum Refining company case, possibly inspired by that judgment, enumerated factors indicated therein which would

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55 Ibid.
56 AIR 1961 SC 895.
justify dispensing with the contract labour system\textsuperscript{57}. The commission found that the proportion of contract workers was as high as 73.9 percent in the iron ore industry (in 1957), 73.8 percent in the jute pressing industry (in 1963), 65.8 percent in the manganese ore industry (in 1960-61), 60 percent in the construction industry (in 1957), and over 20 percent in almost all the other industries studied\textsuperscript{58}. Taking into account the broad constitutional goal of social and economic justice to all and relevant statistical data on contract labour issues, the commission recommended for its abolition.

1.6.2.5 Enactment of the Contract Labour (Regulation and Abolition) Act, 1970

On the recommendations of the Tripartite Committee, the Ministry of Labour and Employment drafted the Contract Labour Bill which was considered and discussed at the 23\textsuperscript{rd} session of the Indian Labour Conference. The bill was introduced in the Parliament on 31\textsuperscript{st} July 1967 which was then referred to a joint committee of the Parliament in 1968. The Bill was passed by both the houses of Parliament and then received the assent of the President on 5\textsuperscript{th} September, 1970. It came into effect on 10\textsuperscript{th} February, 1971. It provides for the abolition of contract labour wherever possible and regulation in other cases. Central and State level Rules have been made for the facilitation of the Act.

1.6.2.6 The Contract Labour (Regulation and Abolition) Amendment Bill, 2002

The Bill was introduced in Rajya Sabha and proposed to amend section 10 of the Contract Labour (Regulation and Abolition) Act, 1970. It was provided that where the Appropriate Government decides that a process or operation is of perennial in nature, contract workers employed for that process and operation should be given regular status. Thus, this amendment intended to assure absorption of contract workers on the abolition of contract labour under section 10 of the Act. But later proposals diverged from that contained in the aforementioned Bill. In March 2000, a Group of Ministers (GOM) was constituted by the National Democratic Alliance (NDA) Government which held a series of meetings in the years 2000, 2001 and 2003. It prepared a draft Bill, the Contract Labour (Regulation and Abolition) Amendment Bill, 2004 and recommended that certain activities which constitute


‘support services’ of an establishment should be excluded from being considered for prohibition clause of the Act. But these measures could not be implemented due to change in the Government and subsequently because of absence of a consensus.59

1.6.2.7 Report of the Second National Commission on Labour, 2002

In order to bring labour reforms, Government of India constituted the Second National Commission on Labour under the Chairmanship of Shri Ravindra Varma on 15.10.1999. The Commission was given a two-point terms of reference: (a) to suggest for rationalization of existing laws relating to labour in the organized sector; and (b) to suggest for an ‘umbrella’ legislation for ensuring a minimum level of protection to the workers in the unorganized sector. The commission in its report observed:

“Contract labour shall not be engaged for core production and services. The employer may engage temporary labour for core production or service activity for sporadic seasonal demand. We are aware that off loading perennial noncore services like canteen and watch ward and cleaning etc. to other employing agencies have to take care of three aspects. There have to be provisions that ensure that perennial core services are not transferred to other agencies or establishments. No transfer to other agencies should be done without consulting the bargaining or negotiating agents where such services are being performed by employees on the pay rolls of the enterprises. The management will be free to entrust the service to outside agencies where the transfer of such services does not involve any employee who is currently in service. The contract labour will be remunerated at the rate of a regular worker engaged in the same organization doing work of a comparable nature. The lowest salary of a worker in a comparable grade of work will be paid if such worker does not exist in the organisation. The principal employer will also ensure that the prescribed social security and other benefits are extended to the contract worker.”60

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1.6.2.8 *Report of Working Group on Labour Laws & other Regulation for 12th Five Year Plan, 2011*

In order to meet the emerging challenges at the workplaces regarding labour issues, The Planning Commission constituted a Working Group on Labour & Other Regulations for the 12th Five Year Plan dated 26th April, 2011 under the chairmanship of Secretary, Union Ministry of Labour and Employment. The report of The Working Group recommends that contract workers should get the same wages and benefits as regular employees doing the same work. Contract workers should get salaries with health cover and social security benefits under the Employees State Insurance Corporation and Employees Provident Fund Act even if they have no security of tenure.

However, despite of these reports and recommendations, nothing has changed at the surface. Employers’ organizations are pressurizing the Government not to take any substantial steps to either abolish or in any way materially regulate the working conditions of contract workers because every industry has different needs and it may not be possible to keep every worker on muster roll because the demand for labour changes with business cycles.

1.7 *RESEARCH DESIGN*

An appropriate research design is very crucial element for any research activity. It is not only important for procedural continuity and efficiency but significant for objectivity of the output of the research as such. The researcher has made efforts to follow the path of an appropriate research design in the given circumstances of the universe of the study. An account of the research has been discussed as under-

1.7.1 *Review of the Existing Literature*

The present research work comprehensively analyses the problem in hand taking into account all the primary and secondary data both from the doctrinal as well as non-doctrinal point of view. Researcher has extensively studied the existing literature on the subject which is already in public domain comprising various books, scholarly articles in journals, magazines, periodicals and newspapers reports, an account of which, has been given below-
This book is a valuable piece of literature on the subject in hand. It shows grave concern over the ever increasing contractualization of employment relationships and the resulting exploitation. The study fairly traces the gradual evolution of the concept and the system of contract labour and its regulation. It analyses the legal measures to address the issues of contract labour in India as well as countries like Argentina, Australia, Brazil, Belgium, Chile, China, France, Malaysia, Pakistan, Spain, Sweden, United Kingdom and United States of America. A critical appraisal of the Contract Labour (Regulation and Abolition) Act, 1970 and their judicial interpretation is worth praising. This study presents an empirical analysis of the working and living conditions of contract workers in the given sample which shows that there is an absence of decent living accommodation, low wages, no holidays, no medical leave, inadequate social security and no security of employment for contract labour.

The learned author argues that the term ‘contract labour’ has been widely utilized in literature to refer to both the phenomenon that is ‘labour only contracting’ as well as ‘job contracting’ and it creates ambiguities. The welfare measures like facilities of canteen or rest rooms are either restricted to length of employment or number of workers employed which works detrimentally to the interests of workers themselves because employers or contractors try to restrict the scope of employment conditions in a way they can better avoid legal accountabilities. In one voice with other scholars, the learned author also regards the lack of absorption after abolition of contract labour under section 10 as the major drawback of the Contract Labour (Regulation and Abolition) Act. 1970. Nominal penalties provided under this Act also make it ineffective.

The analysis of various judicial decisions reveals that the judicial approach in most of the respects has been consistent yet there have been deviations too. The most debated deviation is on the interpretation of the clause of abolition and absorption. It

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is hoped that judiciary will be sensitive and alive to the labour and human rights issues. Apart from the legal aspects, other policy matters and the role of various stakeholders have been considerably discussed in this volume. On the whole, this book presents a very valuable and worth praising literature on the subject.

**K.R Shyam Sunder, Contract Labour in India-Issues and Perspectives**

This study endeavors to answer the basic question that whether the flexibilisation of employment and the associated labour insecurities affect the welfare of the workers and have implications for the decent work agenda. The tripartite set up has failed to resolve the deadlock created by rigid stand taken by the different social partners on the issues and prospects of the contract labour. It is in this context that the Indian Society of Labour Economics organized a panel discussion on issues related to the contract labour system in its 52nd annual conference. The panelists comprised trade union leaders, senior human resource managers, labour administrators, legal specialists, academicians and consultants. Their papers form the contents of this monograph. The papers analyze diverse perspectives-legal, ideological, historic, economic and administrative. These papers discuss the core issues like permanency, pay equity and regulation. A comparative analysis of china model is indeed invaluable one.

There has been an analysis of research evidence and field realities on the basis of scholar studies of Ahsan and Pages, Golder, L. K. Deshpande, Bhandari and Heshmati, Sen, Saha, Maiti and some other scholars. The study also brings forth the matters of concern for the legal fraternity as there has been shift in the role of judiciary influenced by pro globalization policies so far as the labour jurisprudence is concerned. This book, in one of its papers, proposes for a unique concept of Employment Regulation and Flexibility Insurance network (ERAFIN). This concept needs to be further explored. Despite of being a scholarly piece of literature on the subject, it does not elaborately discuss the various legal aspects of the problem. However, this book is, nevertheless, a very valuable reading literature to all concerned with the problems and plight of contract labourers.

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K.G. Parashurama, *Contract Labour in India-Problems and Prospects* 63

This book helps us to inquest the problems and prospects of contract labour in India. The author describes that contractual employments are replacing direct or permanent jobs. In part the rising of the sub contracting is due to the dire need for corporate downsizing for survival and contract labour is also often used to cut companies and their social contributions to avoid job security. It also undermines the organizing of trade unions and their working. In the beginning, the learned author discusses various aspects of the problem namely the nature, extent and complexity of the contract labour issues, reasons behind the use and abuse of contract labour, industries prone to contract labour and the problem of migration of labour. Afterwards, a detailed analysis of the socio economic profile and working conditions of contract labour in the given sample in the state of Karnataka has been done. The contract labour scenario in public sector enterprises has been specifically analyzed to bring forth the problems of contract labour in the organizations owned or controlled by the state upon which lies the responsibility to uphold the constitutional values of the dignity of labour, equality of status and income and freedom from exploitation. However, the limitation carried by this work is the lack of adequate legal reasoning and analysis of legal issues involved in the problem. In the concluding chapter, the author puts forth some suggestions which, if implemented, will lead to the betterment of the conditions of contract labour in India.

Alok Bhasin, *Law Relating to Contract Labour* 64

This work is a scholarly piece of literature divided into four parts. After a convincing introduction of the magnitude, relevance and significance of the issues of contract labour, the leaned author tries to establish that the problem of contract labour concerns whether and how to regulate a phenomenon that may have characteristics of both types of relationship that is, concerning commercial law and labour law, or that in certain cases, while restraining essential characteristics of the second, are given some of the formal attributes of the first. This must be done so as not to undermine the viability of either type of relationship. It makes this study more interesting from the jurisprudential point of view.


In first part of the book, the author tries to analyses the scope of sham contracts. The second part of the book deals with the changing patterns of employment relationships, the challenges posed by those changes, the attitudinal differences in the views of the social partners and the possible remedies thereto. The third part throws light on the scope of related labour legislations. Part four of the book, after a detailed examination of the law of contract labour as enacted by legislature and interpreted by judiciary. The author critically analyses recommendations of the Second National Commission on Labour which are worth praising. On the whole, this work, though quite lengthy in volume, is very valuable one. The discussion of the problems in the light of International Labour Organisation’s Report on Contract Labour 1997 guides the readers in international perspective of the problem. The illustrative exercises and the use of beautiful English words and phrases with their continental properties make the book more attractive, understandable and interesting to the readers. A supplementary booklet is very useful which enumerates various amendments made in different states in their respective laws on contract labour.

H.L. Kumar, Practical Guide to Contract labour-Regulation and Abolition Act and Rules

This book extensively explores the legal aspects of the contract labour issues. The author admits that there is a steep rise in the contract labour system in India. It has led to industrial issues and litigation. Contract labourers do not get benefits like provident fund, sickness leave, gratuity, accidental compensation and even a fair wage which is necessary to fulfill the basic needs of life. However, the learned author, on some grounds, endeavors to justify the contract labour system and therefore helps the readers to enable themselves to manage contract labour system effectively within the parameters of law. It helps to know the weaknesses of the law. The volume provides for model agreements between principal employer and contractors. A detailed discussion on various aspects of the law and its judicial interpretations is indeed helpful. Though this work lacks any primary socio-economic survey of contract labour, it, nevertheless, explores the legal aspects and helps the readers to find out the loopholes of the Contract Labour (Regulation and Abolition) Act, 1970.

Deepanjan Dey, *Concept and Supreme Court Rulings on Contract Labour (Regulation and Abolition) Act, 1970* 66

This study analyses the law relating to contract labour as evolved through various stages of interpretation by the honorable Supreme Court of India. An effort has been made to explore the impact of the earlier judgments relating to contract labour passed before the enactment of the Contract Labour (Regulation and Abolition) Act, 1970, including the Standard Vacuum Refinery case. It has been tried to distinguish between ‘contract of service’ and ‘contract for service’ in the light of judicial decisions. Various judgments dealing with various aspects of the problem have been referred and discussed. It has been concluded that no court has the jurisdiction to determine the propriety of abolition of contract labour. It is exclusively in the domain of the power of the Appropriate Government. An industrial adjudicator can direct abolition of contract labour if a contention is raised that the contract entered into by the principal employer and the contractor is sham or the bogus one. The limitation carried by the book is that it deals with only one aspect of the research problem in hand, however, with that aspect the study justifies to a great extent.

D. P. A. Naidu, *Contract Labour in South-Asia* 67

This work relooks the problems of contract labour in bigger perspective. The industrial society in South-Asia has undergone a drastic change. Unions have become weak. They are no longer able to assert the rights of labour in loud voice. Political class has also contributed to this situation. Today the non regular modes of employment have become policies of public sector too. Around half of the work in almost all the workplaces in South-Asia is done through contract labour. Though there are some advantages of the contract labour system such as labour size and cost flexibility, efficiency and discipline, however, this system should not become the rule of the game. The security of employment is necessary for the dignity of labour in general. There should be a check on use of contract labour in core activities of the establishments. This work tries to answer the questions at macro level citing examples

from economies of India, Pakistan, Bangladesh etc.. It is helpful to the researcher in exploring the international perspective of the problem in hand.

**S.D.Puri, Contract Labour (Regulation and Abolition) Act, 1970.**

This is a handy book on the various aspects of the legislation in question. It facilitates the readers to find the required information in short time. One important feature of this work is the detailed presentation of the various notifications issued under them Contract Labour (Regulation and Abolition) Act, 1970. It helps the reader to know the objectives, application of mind and the efficiency of the working of the Appropriate Governments in the administration of the Act and other related labour laws. It is very important aspect of the research problem as it is one of the major issues, the basic one. The effectiveness of welfare legislations lies in their proper implementation. The readily available ratio of case laws on the subject is also a remarkable feature of the book. Though this work does not answer the bigger questions involved in the research problem, it, nevertheless, facilitates the reader in finding the information in short time span.

**P.D.Shenoy, Globalization-Its impact on Industrial Relations in India**

This book presents an extensive exploration of the phenomenon of globalization, its incentives and the hurdles faced by it. India and the world have undergone a metamorphosis during the recent times. The huge expansion in the cross border capital, trade, people, technology and information flows have become a defining feature of globalization, while the conditional lending by International Monitory Fund and the World Bank and the advent of World Trade Organization have pressed the developing countries to dump protectionist state centric development strategies, resulting in a new kind of international division of labour. Productivity has become a central issue, so also labour market flexibility.

The learned author argues that globalization poses some threats to Indian labour, however, there are opportunities too and these have been discussed at length in this volume. A concern has been shown on the declining power of unions in India. Informal and contractual employment has grown but real wages did not rise.

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accordingly. Small scale sector is decreasing in strength. The impact of labour laws along with International Labour Organization (ILO) conventions has been studied. The author recommends that Government of India should ratify various conventions of the ILO and should find a way that along with decent labour standards, progressive policies should be framed and executed so that we do not miss the opportunities we may get in future. On the whole, this work is very useful in gaining knowledge on the processes underlying the new economic realities and their impact on labour.

**N.K.Jetli, India: Economic Reforms and Labour Policy**

This book examines the whole gamut of labour issues in the context of economic liberalization underway in India. The author urges that a proper and efficient institutional framework is required before the execution of labour reforms in India. This work tries to explain the impact of pro-capital labour policies. The book examines various provisions of labour law in their constitutional and welfare state perspective. An evolutionary perspective of Indian labour movement is valuable one. The roles played by different international institutions such as ILO and WTO have been discussed. In one of its chapters, a very valuable debate on the issue of labour laws and women empowerment has been done. The author says that labour reforms is a very sensitive subject in the Indian context, given the ground realities of poverty, illiteracy, diseases, deprivation, exploitation, lower per capita income etc. These problems are prominent in case of contract workers. Thus this work helps the readers to understand the labour reform agenda in bigger perspective which is necessary to come any conclusions on labour policy and labour laws in India

**V.V.Giri, Labour Problems in Indian Industry**

This book comes from an eminent expert on labour matters Sri V.V.Giri who had the privilege of being a trade union leader from the very beginning of trade union movement in India. He later became the union minister of labour. The researcher went on to review this work to know the basic principles and values underlying the labour legislation in India. It is quite necessary in the present times because the role of the state and the Government institutions is being redefined in the wake of new capital

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centric economic policies. This work gives a detailed account of the trade union movement of India as well of the world. The historical background and analysis of the various aspects of the policy and law such as wages, social security, women labour, child labour etc. is very useful one. It has been urged that if advanced scientific technology could offer automation cutting down human drudgery and meeting the demand of labour four-day week, surely the same scientific ingenuity can provide jobs to our millions, especially when we have at our command enormous natural resources and a working season throughout the year- advantage denied to many advanced countries. The best way to engender the necessary motivation is boldly to launch a policy of full employment.

On the role of trade unions, the learned author cautions that if a movement is to discharge its duty towards the labour, it is necessary to take steps to secure economic independence by strengthening and uniting all workers on democratic principles. Workers are also duty bound to the country as citizens. The legislation should only be one of the planks in helping the workers to cure their many ills. Legislation should only form a glass to the conventions already prevalent. Legislation should underline the results achieved through mutual negotiations only to give them a legal status. Labour movement is a world movement and internationally, all the unions and workers should unite and come together to establish and maintain industrial peace. It is the ultimate goal of labour laws, policy and movements.


This work is a scholarly piece of literature on labour law at international level. It tries to answer a basic question that whether in the modern era of globalization, labour law serves a legitimate mission and if not, should it be dissolved back to contract? It is a very important question of present times. Efforts have been made to answer this question by analyzing various theories of production, employment, industrial relations and labour jurisprudence. Citations from the work of various

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eminent scholars of the world greatly enlightened the researcher. The thoughts of neo-
liberals and conservatives have been discussed at length. It is argued that in
performing their joint activity, employer and employee not only make widgets but
also construct or enact the employment relationship itself and in principles, the
identities of employer and employee. These identities are not entirely exogenous to
productive activity or labour markets. They are partially constituted by the legal rules
and discourses. However, the labour law rejects the view that the contract of
employment is always a product of coercion. The position is that the labour contract
reflects elements of both freedom and coercion otherwise collective bargaining would
lack principled justification.

The discussions in the papers constituting the book embodies the analysis of
works of eminent scholars such as Kahn Freund, Collins, Sciarra, Karl Klare, Miller,
Arthur, Baskin, Amartya Sen, Fukuyama, Kelly, Conaghan, Bob Hepple, Deakin and
Morris and others. The concepts like transformative processes in labour law, declining
power of trade unions, identity organizing, transnational labour solidarity, corporate
code of conduct as a regime of labour market regulation etc. have been extensively
explored. Though this work does not deal with the research problem exclusively, yet
it greatly helped the researcher to know the root causes and genesis of the problem in
hand and that too in international perspective.

Joseph D’Souza, Labour Law- Dynamics and Relevance

This work presents an overview of labour legislations of different countries of
the world namely United States, United Kingdom, France, Italy, Russia, Germany,
Australia, China, Iran, India and others. The discussion on the topic of ‘contract of
employment’ in different countries is helpful in finding answer to the jurisprudential
questions involved in the research problem. The other aspects of regulation such
wages, health and safety, social security, compensation and dispute resolution have
also been discussed at length. This work quotes very beautiful sayings of great people
at the beginning of each chapter which are very inspirational. On the whole, this book
helped the researcher to look at the research problem in international perspective.

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Joseph D’Souza, Labour Law- Dynamics and Relevance, New Delhi: Cyber Tech Publications,
2013.
Articles

Errol D'Souza and Debashish Bhattacharjee, Employment and Industrial Relations in India

This research work shows the significance of the employment, unemployment and underemployment rates prevailing in India from 1983 to 2008 and its impacts on industrial relations. It acquaints the researcher with the ‘added worker effect’ that is the pressure of unemployment on the labour market which in part, is responsible for the plight of workers in general and the contract workers in particular. The study reveals that gender bias at workplaces still exists. Unskilled workforce suffered the most by flexi-labour policies. However, in manufacturing, the job creation for contract staff in large firms exceeded the job destruction rate, resulting in a net employment increase of 4 per cent a year. This goes in favour of reformists. The author concludes saying that there is a need to move towards a comprehensive income security and only after this, labour law can be rationalized.

Onkar Sharma, Contract Labour System: Law and Practices in India

This research paper proclaims that till late 20th century, the contract labour system was practiced only on need based but after economic policy of LPG (Liberalization, Privatization and Globalization), and this system is in practice not as exception but as general rule. The reports of various commissions and committees have been discussed to present an evolutionary aspect of the problem. A detailed discussion on various provisions of the Contract Labour (Regulation and Abolition) Act, 1970 with case laws is quite informative. The learned author also enumerates, with provisions, other labour laws which do not make any distinction between regular workers and contract labour. On the whole this work is very valuable one as it categorically throws light on the legal aspects of the problem. However, the shortcoming of the work is that it does not suggest what is to be done in future to safeguard the interests of these poor workers in terms of amendments to the laws or policies.

Suresh V. Nadagoudar, Contract labour Issues and the New Economic Policy: Issues and Perspectives

This research paper is a critical analysis of various provisions of the contract Labour(Regulation and Abolition) Act, 1970 (the Act for short) in the light of new economic policy of globalization, liberalization and privatization. On the question of absorption of contract labour after its abolition under section 10 of the Act, the author argues that the intention of the Act cannot be to denude workers of their source of livelihood and means of development by throwing them out of their employment. The very scheme of ambit of section 10 of the Act indicates the legislative intent of making the erstwhile contract labourers direct employees of the employer on abolition of the intermediary contractor. Various judgments supporting this view have been discussed. The article concludes with saying that contract labour in core activities of production and services should be abolished though it may be continued in allied services with adequate legal protection from exploitation.

Ashis Das and Dhananjay Pandey, Contract Workers in India: Emerging Economic and Social Issues

This research paper unfolds the truth of working conditions and socio-economic issues relating to contract workers in industries producing steel, cement and white goods through an empirical research study. Most of the contract workers come from weaker sections. A lot of discrimination exists between contract labour and regular workers in terms of wages and other things. Only skilled labourers get minimum wages. Serious safety concerns, longer working hours and job insecurity are the common features of contract labour system. There is no social security for them except employee’s state insurance. Though employers and contractors were found to be little helpful to these poor workers yet they did not provide the kind of facilities prescribed under the Act.

H.S. Pandey, Contract Labour and Social Security Legislation in India

This work articulates that contract labour system is resorted to by the employers to avoid social security to contract workers. The regular employee is paid

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social security under various legislations. Though these social security legislations are applicable to contract labour also but in practice no such contributions are paid. The most obvious reason for this practice is the weaknesses of these laws and consequential judicial decisions. The definitions in all the social security legislations need to be amended to specifically insert the words 'contract labour'. It is a high time to implement the universal social security programme to all workers in India. The author gives valuable suggestions for the amendment in social security legislations.

Srishti Goyal and Samaran Shetty, Automatic Absorption of Contract Labour: Beyond AIR INDIA and SAIL\(^7\)

This article endeavors to verify the correctness of legal reasoning behind the Supreme Court’s decision in *Steel Authority of India Limited v. National Union for Waterfront Workers*\(^7\) in which it was held that contract labour is not eligible for automatic absorption after its abolition in Act. The Act is welfare legislation and should be interpreted accordingly. The object of section 10 of the Act indicates that contract labour is abolished because such work is to be performed by regular workers. So some kind of legal protection to contract workers is required. However, it should not be assumed to extreme limits as it was decided in *Air India Statutory Corporation v. United Labour Union*\(^8\). Furthermore, the issue of power of court to direct the employer to give preferential right to contract labourers in case of later employment opportunities remains ambiguous. The abidingness of such directions, the remedy available in case of violation of such directions is the question left unanswered by the Apex Court.

Nimushakavi Vasanthi, Resurrecting/ Renegotiating Labour Rights in a Globalising World: Critical Theory and Contract Labour\(^8\)

This research paper examines the scope of critical legal theory in contract labour issues. Analysis of important case laws has been done. The author argues that the system of contract labour brings forth the issue of ‘invisiblisation’ of workers. It


\(^8\) (2001) 7 SCC 1

\(^8\) (1997) 9 SCC 377.

introduces the hierarchy of important workers (regular) workers and less important ones (contract workers). The point of concern is that the denial of entitlements at work are not seen as the denial of right to life and equality or dignity but rather a condition of employment. After discussion of the relevant case laws, the author concludes that the utility of law should be seen in its ability to render justice to the people for whose stake it is so enacted and so interpreted.

P.C. Chaturvedi, Reference of Contract Labour Dispute82

This research paper tries to answer a peculiar question that whether any dispute relating to the conditions of service of a contract worker can be referred under the Industrial Disputes Act, 1947. There are mechanical rigidities between the provisions of the Act and Industrial Disputes Act, 1947. On the basis of some judgments, the author tries to establish that the Act is a complete and comprehensive law relating to contract labour and being the special law, it overrides the provisions of Industrial Disputes act, 1947. Therefore, it took away the power of the Government to make a reference of dispute under section 10 of the Industrial Disputes Act, 1947.

Aditi Singh, Current Scenario of Contractual Employment in India83

This study enumerates various vulnerable facts about the contract labourers in India. A huge discrimination exists between a regular and contract worker. Along with other aspects like wages, bad working conditions and social security, the author shows special concern over the issue of sexual harassment of women contract workers. The Act is silent on this issue. Though the new law relating to prevention of sexual harassment of women at workplaces is applicable to contract labour also but rarely any contractor or principal employer takes necessary steps prescribed by such law. Inferior treatment to contract labourers is the main cause of recent industrial unrest in India. The Author calls for more initiatives in concrete efforts on the part of International Labour Organization.

V. Laksami Pathy, Contract Labour System – A Modern Form of Slavery

Contract labour system is a kind of bonded labour system. Before the enactment of the Contract Labour (Regulation and Abolition) Act, 1970, the workers could raise a dispute under the Industrial Dispute Act, 1947. They could convince the labour court that their work was a continuous one and were eligible for regularization. After the enactment of the Act, this remedy was taken away. All the powers are vested in the hands of Government. It is in this context that the author analyses various judgments of higher courts and evaluates the role of judiciary.

J.P. Sharma, Labour Law Reforms in China and India: is China Model an Answer?

‘India and China comparison’ is one of the most favourite topics of debate around the world. Reasons are many as India and China are similarly placed in many respects including population, a large workforce, cheap labour, young talent etc. This paper deals with the labour reform agenda in both the countries. China has satisfactorily reformed its labour laws according to the changing needs. How it can be a model for India is the question probed in this research paper. From 1949 to 1978, the Chinese labour enjoyed lifetime employment in state owned organizations which was highly secured and known as ‘the iron rice bowl in china’. After the adoption of globalization policies, China adopted labour contract system in mid-eighties. Privatization movement started in 1993 and a year after, a new contract labour law designed to cater the needs of new economic policy was adopted. New contract law provided no social security system, no guarantees of employment, no basic rights of safety and no occupational welfare provisions. Different provinces enacted similar rules at local level. After resistance from the labour class, the Chinese Government enacted a new contract labour law which ameliorates the conditions of workers to some extent. The author after reviewing the Indian labour law concludes that labour reform in India should provide further impetus to promoting the new work culture wherein workers feel economically secure and employers not burdened. China model may be helpful but not in its entirety as Indian conditions are different to some extent.


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The recommendations of Second Commission on Labour 2002 should be implemented. We should adopt a balanced approach in executing labour reforms in India. A detailed discussion on the Chinese contract labour law is the noticeable feature of this paper.

**K.R. Shyam Sunder, Industrial Violence and Labour Reforms**

This study endeavors to know the root causes of recent industrial violence and industrial accidents in India. The author claims that contract labour issues are greatly responsible for this situation. The problems faced by contract workers are not addressed by the concerned laws and policies. The employers as well as the trade unions, both are using unconventional methods to resolve industrial disputes which have resulted in violent conflicts like in Maruti Suzuki, Epkos India, Honda, Hyundai Motors and others. The demand of contract workers for regularization and wage parity has been the central cause of conflict in abovementioned cases. The author argues that if the contract labour is required only to secure easy lay-offs then why they are paid far less than the regular workers in terms of wages and other benefits for the same or similar kind of work. Various arguments presented by employers and unions have been discussed in this paper. This work throws light on theories of industrial relations. This work tells us why deadlock remains on the question of labour reforms in India.

**Durgambini Patel, Approaches, Theories and Methodology of Law to Address the Current Issues and Problems of Workers in India**

This research paper questions the approaches, theories and methodology of law to address the problems of workers in the present times. The utility of law should be seen in terms of its social audit. Today, the approach of judiciary seems to be influenced and inspired by new economic realities. Substantive laws did not change but the interpretive approaches of the courts underwent change. The author cites various examples in support of his arguments. It is urged that legal decisions should be based on legal research which is analytical and interdisciplinary in nature.

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Meenakshi Rajeev, Contract Labour in Karnataka- Emerging Issues and Options\textsuperscript{88}

This study is an attempt to look into the living and working conditions of contract labourers in real life situations and thereby to put forward some suggestions to curb problems of contract labourers. This study is based on a field survey in some selected industries in the state of Karnataka. The study reveals that 80 per cent of the workers migrated from different parts of the state as well as the country. 50 per cent of the workers were paid less than the statutory minimum wages. The contract workers face severe discrimination as compared to regular workers in terms of wages, social security, health and safety provisions. Provident fund contribution is taken as burden by workers themselves because they have to open a new account every time they change the employer and unable to claim the balance with earlier employer. Contractors abscond without paying them their dues. Contract workers get demoralized psychologically. The author suggests that minimum wages be linked to wages of regular workers in the enterprise. There should be an independent authority to listen to the cause of contract labour. This work is indeed, very informative for the researcher.

Alec Gordon, Contract Labour in Rubber Plantations- Impact of Smallholders in Colonial South-East Asia\textsuperscript{89}

This research study explores the historical evolution of the living and working conditions of labour, the types of employment contracts used in plantations in India, Sri Lanka, Malaysia, Indonesia, China, Vietnam and other neighboring countries in South-East Asia under imperialists in the time span of 1860 to 1960. The study describes the evils of indenture contract system. Contracts were written in foreign languages. Mostly cheap migrant labour was used. Unreasonable deductions from the wages and credit trap system were common. Criminal law was used against workers to suppress their legitimate demands. Wage was a single person wage without any support to family. Women were paid much less than the men. Divide and rule was the policy. It was said that to secure your independence, work with Javanese and Tamils and if you have sufficient experience, also with Malays and Chinese; you can always


\textsuperscript{89} Alec Gordon, “Contract Labour in Rubber Plantations- Impact of Smallholders in Colonial South-East Asia”, \textit{Economic and Political Weekly}, March 10, 2001 p 847.
play one against the other. Afterwards, indenture system was replaced by Kamgany System and assisted work systems. These systems also fully exploited the labour. After the defeat of colonial powers and declaration of independence in the whole region, things changed in many ways. Regularization of workforce, organized activities, smallholder’s undertakings took place. The author concludes that whether the situation has totally changed or not even today is a matter of further research.

**Krishna Chaltanya, Unfinished Struggle of Contract Labourers**

This article presents a pitiable picture of the judicial process in relation to interpretation of the scope of provisions of the Act. It unfolds the story of unfinished struggle of contract workers of Tata Iron and Steel Company Limited, Jamshedpur. After three years, industrial tribunal came to know that it does not have jurisdiction to grant relief to contract labourers under the Act. The matter came to the Supreme Court in special leave petition after a decade long fight. The Supreme Court ordered for change in the terms of reference of the dispute in the industrial tribunal. Meanwhile the Appropriate Government could not decide for decade whether the contract labour should be abolished or not. The author concludes that lack of judicial access and lack of clarity of contestable rights of contract labourers is the major drawback of the Act.

**Mahasveta Devi, Contract Labour or Bonded Labour?**

This study presents a deadly picture of the conditions of labour in Bihar, West Bengal and Orissa in the eighties. It describes that the placement agency work was done by sardars, munshies and dalals. By paying some money in advance, these middlemen used to bring labourers including young girls and children to brick-kilns, forests and plantations and other like works. At work sites there is exploitation of these workers beyond imagination. All was done in the name of contract labour but in fact it was slavery and it was in practice when the Act had already been enacted. The researcher has come across the literature which shows that such conditions exist even today also in some parts of the country and in some particular work places like brick-kilns.

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Colin Gonsalves, Tragedy of Contract Workers

This work makes an impact assessment of the Contract Labour (Regulation and Abolition) Act, 1970 after nearly two decades of its enactment. The study reveals that it is the public sector and big enterprises which are employing huge number of contract labourers. Those appointed to protect contract workers have perhaps been instrumental in the deterioration of their lot due to their hyper technical and uncaring approach. Contract Labour Boards exist but do not function. If the contract labourers approach Government, the reply frightens them that if it abolished contract labour system; they will lose their jobs as there cannot be automatic absorption after abolition. The concentration of power to the executive wing of the Government is the major drawback of the Act. Though this paper is older in times yet provides very valuable information about the evolutionary journey of the Act.

Gurbir Singh, Legal Setback for Contract Labour

This paper critically examines the judgment in *Dena Nath and Others v. National Fertilizers and Others*. The contradictory views taken by different High Courts are confusing and entail criticism on the question of liability of principal employer and the contractor not having registration certificate or license to employ contract labour under the Act. In the above mentioned case, it was decided that after the abolition of contract labour, contract workers do not become regular workers of the principal employer nor the judiciary can direct the Government to issue order for abolition of contract labour. The maximum which can be done is the imposition of penal provisions on the erring contractor or principal employer which is far less than the required. The author severely criticizes this situation. The important point is that it still continues.

P.K. Bhargava and Jyoti Bhargava, Social Security for Contractual Labour- Issues and Challenges

This study provides that contract workers suffer from income insecurity, occupational insecurity and natural insecurity. The paper does not question the intention of the state to take care of these workers. It says that paucity of resources

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94 1991 SCR Supl. (2) 401.
especially at the State level may be hindrance to achieve the desired objectives. The role of the state should be a facilitator and at the same time to extend required assistance to voluntary agencies or associations such as Self-Employed Women’s Association (SEWA), to provide necessary social security to the workers of the unorganized sector which includes contract labour also.

**Barbara Harriss-White and Velentina Prosperi, The Micro Political Economy of Gains by Unorganised Workers in India**

This research paper explores the impact of micro political economic factors on the increase in real wages in informal economy in which large number of contract workers are employed. The study reveals that the schemes like Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA), Public Distribution System, social security legislations helped to increase the wage level in the informal economy. However, these are efforts to improve conditions outside the work, not at work and more research is needed in this regard. In this work, the author also tries to find a link between the rise of wages and civil society movements, self-employment, migration, long term loyalty and collective identity struggles. This work helped the researcher to think in wider perspective of the problem.

**Ashok Kumar Panda, In the Name of Contract**

This paper is a part of cover story of Frontline magazine entitled as’ Labour Under Attack’ published just after the inauguration of labour law reform agenda by the National Democratic Alliance Government with fancy title ‘Shrameva Jayate’ on October 16, 2014 supposed to be in praise of labour. The cover story, in general, puts forward that Prime Minister’s labour law reforms, aimed at supporting his ambitious ‘Make in India’ campaign, have been designed without any discussion involving the trade unions and other labour friendly stakeholders. The Government’s announcements included doing away with the complex system of labour inspection and substituting it with a more technology friendly and a single form online providing for self certification for employers instead of 16 forms. Computerized lottery system will decide which factory is to be inspected and which inspector will do the inspection. Inspectors will be required to file their reports within 72 hours of the inspection and any action will be initiated only after a proper scrutiny is made by a

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central agency and on the basis of the compliance report of the employer. In the given
paper ‘In the Name of Contract’, the author presents a critical analysis of the present
conditions of contract labour and the possible reforms in the labour sector
encompassing labour laws and labour relations. The demand of industry for treating
contract labour as cheap source of labour should be rejected. The right to job security
is a part of labour jurisprudence. Industries are earning huge profits but not ready to
share them with labour. The author urges that various recommendations of the
conference against contract labour system held on 19 November 2007 and 43rd session
of the Standing Labour Committee 2009, which has been discussed in this work,
should be implemented.

1.7.2 Research Gap

The issue of amendments to the Contract Labour (Regulation and Abolition) Act, 1970 is now high on the labour law reform agenda of the Government and so is the debate on this topic. Both the reformists as well as the protectionists demand for changes in the law and policy relating to contract labour. The researcher has studied extensive literature to know the pros and cons of the research problem. Though the existing literature explores various aspects of the research problem, yet slight gaps exist. Most of the studies are based on doctrinal research. More empirical research is required and the Government has also uttered the same. The manufacturing sector’s contract labour problems have not found due place in existing studies, particularly from the point of view of effect of globalization and liberalization of the economy. The constitutional and jurisprudential perspective of the problem needs to be further explored. The present study which is an analytical and empirical research is going to fill these gaps in the existing literature and thereby contribute to the national thought process on the contract labour law reforms and to provide the readers with necessary homework material based on field survey. The study will also be useful for administrators, employers, academicians, labour unions, labour activists and workers at large. The future researchers will be greatly benefited by this study.

1.7.3 Research Questions

The study answers the following research questions:-

1. What is the current situation, major issues and problems of contract labour in
   India?
2. What is the existing legal framework for the protection of the interests of contract labour in India and the loopholes therein?

3. Whether the judicial pronouncements have adequately helped the contract labour by granting some specific reliefs under the Act or otherwise?

4. What are the various international labour standards recommended by International Labour Organization (ILO) to protect the interests of contract labourers? What is the significance of social dialogue and how it played its role at national and international level? How the legal enactments of some selected countries deal with the problem?

5. What are the living and working conditions and major problems of contract labour in the Jalandhar sports Goods Manufacturing Industry? What kinds of contract labour practices are operating therein? What has been the impact and implementation scenario of the Contract Labour (Regulation and Abolition) Act, 1970 in the given industry?

6. Has the Act become deficient to achieve its desired objectives? What are the reasons behind it? Does it require suitable amendments; and if found true, what are the necessary amendments?

There are six chapters of the thesis and each chapter endeavours to answer one particular research question.

1.7.4 Hypothesis

The study has been undertaken to test the following hypothesis-

1. Contract labour is the growing form of employment practice in India.
2. Contract labour is employed even in core activities of production which are permanent and perennial in nature.
3. Contract Labour System lends itself to various uses and abuses.
4. Contract workers are low paid workers and in many cases, they are not paid even the statutory minimum wages.
5. There is a lack of adequate social security system peculiar to the conditions of contract labour.
6. The working conditions of contract workers are poor and undignified.
7. The scope of judicial intervention is narrow. The crucial powers under the Contract Labour (Regulation and Abolition) Act, 1970 have been vested in the appropriate Government without adequate guidelines.

8. The Contract Labour (Regulation and Abolition) Act, 1970 was enacted to safeguard the interests of contract labour. The implementation of the Act is unsatisfactory. The Act failed to achieve its desired objectives. It has become out-dated and deficient in the post-globalisation era.

1.7.5 Significance of the Study

The present study makes a critical analysis of Contract Labour (Regulation and Abolition) Act, 1970, the Rules made there under, the provisions of other labour legislations applicable to contract labour including the related Rules in the state of Punjab. Present study is distinguished from earlier studies as it has following significant features:

1. This study critically examines the legal framework with special reference to the Sports Goods Manufacturing Industry of Jalandhar District in the state of Punjab whereas the other studies on the subject have been specific either to the other kind of industry like petroleum and oil refineries, construction and plantation or of different geographical areas such as Mumbai, Delhi and Karnataka.

2. Most of the earlier studies have been conducted by the official labour administrative agencies on the specific terms of reference. This research work is a comprehensive study comprising the assessment of wages, hours of work, working conditions, conditions of service, social security measures and the methods and procedures provided under the Act for its proper enforcement.

3. This study is based upon the comparative study of the primary data collected through empirical enquiry and the secondary data in form of official reports and other sources. It will facilitate to cross check the implementation scenario and recommend for the elimination of shortcomings in the Act.

4. This study endeavors to find out the solutions to the Indian problem by making a comparative study of the corresponding legal enactments in some select countries as well other international entities.
5. A revision of the constitutional scheme for the protection of working people is quite important in the current era of globalization. It helps to know the real role of the Government in a welfare state as per the aspirations of our Constitution makers. It is important as our labour laws are built upon the tripartite system aimed to achieve constitutional goals. This study will help the reader to know why the state intervention is necessary.

1.7.6 Objectives of the Study

This study has been undertaken with the following broad objectives.

1. To critically examine the provisions of The Contract Labour (Regulation and Abolition) Act, 1970, the Central Rules made there under and other related labour laws applicable to contract labour and various amendments to these laws in the state of Punjab.

2. To study and discuss the deficiencies and shortcomings in the provisions of the above stated legislations in light of the current issues and problems of contract labour in India.

3. To understand the mechanism and methodology for the implementation of the Act.

4. To know the actual reasons of poor implementation of the Act.

5. To analyze the constitutional framework in relation to the problem in hand.

6. To review international efforts on the subject.

7. To know and analyze the scope of judicial efficiency on the subject.

8. To assess the actual working of the Act on the basis of empirical data relating to present conditions of the contract workers in the sports goods manufacturing industry, Jalandhar.

9. To know the views of concerned stakeholders on the subject and assess the importance of their role for the betterment of the situation.

10. To consider the utility of the Act and other related legislations and suggest for necessary amendments.
1.7.7 Research Methodology

This research work is a critical and empirical study though essentially covering all the doctrinal aspects of the research problem. To pursue this research, primary as well secondary data has been utilized. The secondary data has been collected from various sources such as official records of the Ministry of Labour and Employment (Union and the State), Labour Bureau, Chandigarh, International Labour Organisation (ILO) Regional office, New Delhi, Jalandhar District Labour Administration, and organizations relating to the sports goods manufacturing industry such as Sports Goods Export Promotion Council and Sports Goods Manufacturers’ and Exporters Association through personal visits, though a part of literature was collected by the researcher from their official websites. The other sources of secondary data include Reports of National Labour Commissions, Standing Labour Committees and Annual Labour Conferences, Reports of Expert Groups on Five Year Plans, records from the office of the Assistant Labour Commissioner Jalandhar and Director of National Child Labour Project, Jalandhar. Besides this, various books, journals, magazines, newspapers, news flashes on television, research papers, research reports and documents have been analyzed. The researcher visited the libraries of Indian Law Institute, New Delhi, University of Delhi, V.V. Giri National Labour Institute, Noida, Ministry of Labour and Employment, Chandigarh besides the libraries of all mainstream universities in the state of Punjab.

To collect Primary data, the researcher first conducted Focused Group Discussions (FGD) with the Director General of the Labour Bureau, Chandigarh (the national level research and statistical institution of union Ministry of Labour and employment which have conducted empirical studies on contract labour in different industries), officials from the Centre for Research in Rural and Industrial Development (CRRID), Chandigarh, the Assistant Labour Commissioner, Jalandhar, The Director of the National Child Labour Project, Jalandhar, The Labour-cum Conciliation Officers of Circle-I, Circle-II and Circle-III areas and the President of the state for Indian Trade Union Congress (INTUC) and thereby, acquainted herself with the scope, dimensions and the challenges underlying the research problem.

Sixty percent of the production of the sports goods industry comprises of inflatable balls and about sixty percent of these balls are exported worldwide. The contract labour system is deep rooted in ball production and has freelanced the whole production process on the modern economic theory of supply chains. Therefore, the
researcher found it appropriate to concentrate on the process and conditions of contract labour in inflatable ball production and it became the basis of the study. The researcher prepared four kind of interview schedules one each for the employers, contractors, contract workers (Home based) and contract workers (Factory based) engaged in production of inflatable balls. With these schedules, the researcher conducted a pilot survey on 150 respondents and found some difficulties in the content of schedules and the methodology of research and rectified it accordingly.

Home based workers were prepared to answer questions; however, the employers were not interested. They simply denied the existence of contract labour practices in their establishments. Some of the contractors answered certain questions only on the conditions of confidentiality. Same was the case with the factory workers. Finally, the researcher prepared one standard interview schedule for the contract workers (home-based) and conducted an empirical survey by visiting door to door at their establishments. The second interview schedule was addressed to the factory-based contract workers.

Jalandhar district is divided into five subdivisions Jalandhar-I, Jalandhar-II, Nakodar, Shahkot and Philaur. Jalandhar-II is the hub of sports goods industry. For home-based contract workers’ study, Five Basties were selected from Jalandhar-II area in which people working in the industry so reside. 80 respondents from each Basti were selected on the basis of simple random sampling method making a total number of respondents to 400 persons. For factory-based workers’ study, 10 factories were chosen from the list of firms supplied by the Sports Goods Export Promotion Council, a Government of India organization. Respondents were selected on the basis of random sampling method. 80 persons were studied. There was great reluctance showed by factory workers to answer questions of the researcher. Various problems faced by the researcher, as explained in the relevant chapter no. 5; themselves show the state of violation of the provisions of the Act in the given industry.

1.7.8 Scheme of the Study

The study has been divided into six chapters. The chapters comprehensively discuss various aspects of the research problem. The chapters’ outlay is as follows-

1. **Introduction** - The first chapter introduces the research problem. It endeavors to reveal the present conditions, major issues and problems of contract workers in India. It brings forth the challenges underlying the regulation of labour market.
The Chapter makes an elementary assessment of the enforcement of legal measures. It also throws light on the historical prospective of the problem. A brief account of the research design has been given.

2. **Legislative Framework for the Protection of Contract Labour in India**- This chapter analyses the content, importance, interpretation and deficiencies in the bare provisions of the Contract Labour (Regulation and Abolition) Act, 1970, Central Rules and the supplementary Rules in the state of Punjab. It also analyses other related regulations applicable to contract labourers with special reference to the social security legislations.

3. **Judicial Interpretations**- This chapter specifically endeavors to make an assessment of the judicial response in matters of contract labourers. Efforts have been made to find out the scope of judicial intervention under the scheme of the Contract Labour (Regulation and Abolition) Act, 1970.

4. **International Labour Code and Social Dialogue on Contract Labour Vis-à-vis National Law and Practice**- This chapter examines various international labour standards applicable to contract labour. The structure, functions and the contribution of the International Labour Organization has been discussed at length. The chapter also makes a comparative analysis of the legal enactments of some selected countries of the world. There are various social partners interested in the issue of legal protection to contract labour such as the international organizations, Governments, employers, trade unions, labour activists, labour lawyers, researchers and academicians. An effort has been made to show the importance of integration and co-operation amongst these social partners.

5. **Empirical Study of Contract Labour in Sports Goods Manufacturing Industry, Jalandhar**- This chapter presents a detailed account of the living and working conditions, wages, working hours, social security measures, safety measures and other facilities and amenities prescribed by the Act, Rules and related regulations in real life working situations in the given industry. The empirical findings lead to some subtle suggestions.

6. **Conclusion and Suggestions**- After an extensive analysis of the primary as well secondary data and generalization of findings, researcher presents her conclusion and suggestions on the research problem. Some amendments to the Act have been proposed and discussed in this chapter.