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**RESEARCH ARTICLE**

**CHALLENGES OF CONTRACTUAL LABOUR**

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**Abstract**

In India, the trend of contract labour system is predominant in almost all the sectors. Despite the fact that labour laws are guaranteed to facilitate safeguard measures and welfare of contract labours, there is still a lacuna in implementation at the ground level. Not only in government set-up, but private and semi-private institutions are also reported to have shortcomings in administration of contract labour system. In this parlance, this study is conducted to explore the condition of contract labour and its challenges in one of the educational institutes i.e. Tata Institute of Social Sciences (TISS), Mumbai. Using qualitative case study approach, this study visualised the challenges face by contract labour. This study recommends TISS to consider the plight of contract labour and become more inclusive campus.

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**Introduction: -**

With the advent of the Industrial Revolution, civilization went through transformation from a feudal mode of production to the capitalist mode of production. Liberalization, privatization and globalization (LPG hereafter) of the product market in the 1990s has affected different groups in different ways. Of the various sections, the effects on the labours have been particularly prominent<sup>i</sup>. The new order, emerged due to LPG, paved way for different forms of work arrangement in labour markets. Apart from the permanent form of employment, new forms of employment like part-time, temporary and contractual emerged<sup>ii</sup>. The part time work provided flexibility to the workers to take up multiple jobs in case, they are willing. In this form of work arrangement workers are paid for the assigned work and no additional work is given to them. Temporary and contractual work arrangement, on the other hand, gave the worker employment for a fixed term. The nature and amount of work in contractual jobs is equivalent to that of permanent jobs. However, the payment for such employment is way lesser than the permanent worker. Neither these workers are provided with the additional benefits.

As a result, contractual work arrangement has reduced the labour cost. Soon, this cost-effective work arrangement became lucrative for industries<sup>iii</sup>. Many developed and developing countries like Japan, UK, US adopted this mechanism. Due to the high inflation and rising unemployment before LPG reforms, the labour too viewed it as a promising arrangement. Post LPG reforms the demand for such arrangements further intensified<sup>iv</sup>. The reforms succeeded in bringing down the rising unemployment rate by providing employment to workforce. However, over the period of time it has been realized that effects were not as positive as they seemed<sup>v</sup>. Not only did it create the inequality of wage payments and working conditions but also dismantled the very framework that ensured the protection of workers with reference to their security, safety and welfare. Consequently, the labour rights were reduced and their welfare suffered severely<sup>vi</sup>. The propagation of idea 'last hired, first fired'<sup>vii</sup> instilled the constant

fear amongst the workers; thereby, reducing them to a hapless lot surviving at the mercy of the resource owners. The workers strongly opposed this and they soon resorted to collective bargaining, protest, to form cooperative and other labor-friendly forms of economic systems to protect their interests<sup>viii</sup>. Henceforth, laws began to be enacted to protect the workers against exploitation and protect their rights in the form of labour laws. In this context, this paper assesses the condition of contract labour and its challenges with reference to work arrangement in practice at Tata Institute of Social Sciences, Mumbai. This has been done by exploring the case of two contractual workers who were initially appointed for temporary job and were later, in 2010, placed on contractual employment. In doing so, the author will also discuss the background of labour laws that have been enacted from time to time. The paper is divided into five sections. First section has introduced and contextualized this study. Section two discusses the background of labour laws. This will be followed by the third section i.e., methodology section in which the methods and tools are discussed. Fourth section highlights the impact of the contractual work arrangement. In the last section, the author will conclude the paper. The following section will discuss the history of their enactment.

#### **Labour Laws and Contract Labour: -**

The idea of labour laws emerged during the reconstruction period after World War II. Post War, the Labour Party of Great Britain strongly protested against the state and demanded safeguards for labours in all the bad as well as good times. In this context, they even published a document named 'Labour and the New Social Order' in 1918. The same year, the British government agreed to establish industrial bodies named as Whitley Councils for peaceful reconciliation between employers and employees<sup>ix</sup>. During this time period, an international body that would define the laws for protection of working class was established. Consequently, International Labor Organisation was established under League of Nations in 1919 and the first International Labour Conference was held in the United States. During the conference first set of labour conventions were adopted. Labour laws, thus enacted, define the administrative rulings and legal rights of workers as well as they restrict the organisations against exploitation of their workers. They also mediated the relationship between trade unions, employers and employees. In a nutshell, labour laws define the guidelines, obligations and rights of the workers and trade unions in the workplace. Broadly these laws can be classified in two categories: 1) Individual labour laws that address the individual concerns of the employees and provide remedies for the same; 2) Collective labour laws that deal with the collective concerns of employers, employee and trade union<sup>x</sup>. These laws ensure that the demands of workers are adequately addressed, they are sufficiently paid, their working conditions are humane, etc. Labour laws have also been implemented in India.

#### **History of Labour Laws in India: -**

In India, labour laws were introduced by the colonial regime. In 1881, Factories Act was enacted. The act granted workers one hour of rest period during the work hours and four compulsory days off in a month to those workers working in companies or industries that were using machinery. Undoubtedly, this attempted to safeguard the interests of workers, however, Indian workers were mostly employed in manual jobs that is why they were at a disadvantageous position. Again in 1929, Trade Dispute Act was enacted for regulation and peaceful settlement of disputes between the employer and the employee. The Act directed the government for setting up of board of conciliation or adhoc tribunals to investigate matters of industrial disputes arising between the industries/companies and the workers. Such investigation could be initiated only when both parties in dispute agreed for investigation. Besides, mention may be made of Payment of Wages Act 1936 which guarantees payment of wages on time and without any deductions except those authorised under the Act. All the employees have right to get salary which is to be paid from their employer or from the person responsible to the employer/ the person so nominated. However, under this Act, workers cannot contract out of any right conferred upon him. Indian workers, who were unaware of these provisions, remained at a disadvantageous position. Consequently, these Acts safeguarded the interests of the Company's workers while Indian workers were left out of the purview of these safeguards under the Acts. In other words, the exploitation of Indian workers continued.

By virtue, Indian labour law is aligned with western principles and most of its fundamentals are derived from International Labour Organisation standards<sup>xi</sup>. Besides, some laws were drafted soon after the independence. Consequently, soon after attaining independence, Indian state amended labour laws as it intended to promote clear and cordial relationships between the workers and employers. Time and again these laws provided guidelines to safeguard the interests of employees. In this context, the first law enacted was Industrial Dispute Act, 1947<sup>xii</sup>. This was done to maintain and promote peaceful work environment to workers. Significance of this act was provision of both internal and external mechanisms to settle industrial disputes where - internal mechanisms include grievance redressal committee. Further, Section 3 of Minimum Wages Act 1948, instigate to regulate minimum rate of wages

for – meeting the cost of living applicable to the worker through facing basic rate of wages and special allowance. It also considers meeting the cost of essential commodities at concessional rates<sup>xiii</sup>. As a social safeguarding device, Employees' State Insurance Act, 1948 was enacted to safeguard the interest of employees from loss and uncertainty during their job tenure. This Act covers all factories and other establishments that employ 10 or more persons – concerned with medical care, maternity or factory accidents and medical care to family members. Furthermore, the Acts like Payment of Bonus Act of 1965 that make responsible for contractual obligation on employers to pay bonuses to employees and Employees' Provident Fund Scheme, 1952 provided for post-retirement benefit for the employees<sup>xiv</sup>.

The culture of employment was becoming predominated by contract system. In India, contract workers have been engaged in activities necessitated by seasonal/occasional requirements of employers, generally in temporary mode<sup>xv</sup>. The main purpose of adopting contract employment structure is to cope with a volatile, uncertain, complex and ambiguous (VUCA) environment<sup>xvi</sup>. However, despite the fact that contract labour system contributes to the economic and financial feasibility, most of the contractors are indulged in misuse of the worker – like: by creating the fear of sacking among the worker rendering them vulnerable<sup>xvii</sup>.

In order to protect the rights of contractual workers, the Contract Labour Act was enacted in 1970. This act authorised both the Central and State government to administer and regulate contract labour work. Having said that, it cannot be ignored that under the Contract Labour Act, the worker must be paid with minimum wages (as prescribed); must cover health and welfare measure that includes – safe drinking water, toilets, canteen facilities, first aid facilities etc; as well as social security like provident fund and medical facilities. Later in 2016, the Union Ministry of Labour and Employment notified an amendment to reduce the excessive dependence on unregulated state of contract labour and proposed to extend fixed-term employment<sup>xviii</sup>. Notwithstanding it, in India, the contractual labour system is increasing but its implementation is far behind the expected milestones. In this parlance, Theron (2002) asserted that 'on the surface all is well. On the ground, things could hardly be worse<sup>xix</sup>'.

Despite the existing provisions and safeguards, the question we are propagating is that – to what extent the implementation is occurring? The question addressing is in term of contractual workers continue to be overworked, underpaid and work under inhumane conditions. In this context, this paper discusses the contractual job positions and their conditions at one of the pioneer institutes of India popularly known as Tata Institute of Social Science (TISS hereafter). TISS is quite popular for many social sciences courses like social work, women studies, development studies, labour and livelihood studies etc. From these courses, one can understand that TISS focuses on imparting education on the issues and concerns of marginalized and minorities. However, not much is being done from the institute's end for providing safeguards to its contractual workers. Due to this, exploring the contractual jobs conditions in TISS becomes an interesting case.

### **Materials and Methods: -**

For this study, qualitative research methodology was adopted as it requires complete understanding of the provisions of contractual jobs and the challenges faced by the workers with more insight. Accordingly, three cases of female attendants working in TISS hostel have been explored using case study approach. To do so, semi-structured in-depth interviews were done as they gave the space to probe in the matter the way attendants look at it. The interview has lasted from 90 mins to 120 mins. From the emerging themes, those suitable themes that answer to the question of this study are selected and narrated in the finding section. The following section discusses the findings of the study in detail.

### **Results of the Study: -**

Tata Institute of Social Sciences (TISS), one of the premium institutes of India specially in the domain of Social Sciences, is a multicampus public research university. The institute has satellite campuses across India i.e., rural campus in Tuljapur, Maharashtra and two off-campus in Guwahati and Hyderabad. Popularly, this institute is considered to be a pioneer institute in social work education (specially in offering Master programmes) as well as Asia's oldest Institute for professional social work education. It was established in 1936 and recognised as deemed university under Section 3 of the University Grants Commission Act (UGC) in 1956. As most organisations do, TISS also adopted contract system for its optimum and effective performance. As a result, the administrative system has both permanent staff as well as contractual staff. Though the institute is rooted in social justice and claiming rights for marginalised people, it has its limitation in addressing the safeguard and requirement of contract worker.

There are many reasons behind the lacuna in this area – some of the reasons are reduction in fundallocation by UGC, financial crunch within the institute and limitations of funding sources from Tata Trust (its parent funder) etc. Due to this, there are many challenges that contractual labours of the institutes face. Having said that, without indulging in the debate of financial limitation, this study attempts to explore the aspects of contract labour condition and the challenges they are facing in TISS, Mumbai Campus. The following sections will highlight the contract worker's perspective.

**Impact of Contractual Arrangement on Workers: -**

Post 2010, all the temporary workers in TISS were transferred to a contract job being managed by a company named Kalpataru Hospitality and Facility Management (KHFM hereafter). In the opinion of workers, this arrangement seemed to be a promising step initially but its dark side was soon revealed to the workers. From the discussion with the employees, it seems that the contractual job provisions prevalent in TISS are not only discriminatory in different ways but are also exploitative.

**Heavy Workload: -**

The contractual employees have long and hectic work hours. The hostel has six floors and each floor has ten rooms. Apart from these, every floor has common spaces like corridors and staircase. Each attendant is responsible for cleaning three floors i.e., thirty rooms and common spaces. Attendants work for nine hours i.e., from 6:30 am till 3:30 pm and from 12:00 pm till 9:00 pm. During these long shifts, breaks are seldom given to them except for lunch hour. The respondents said that the number of paid leaves has also been reduced. Earlier they could take 2.5 paid leave in a month but now it has been reduced to two paid leaves in a month. They are also entitled eight casual leaves in a year. However, even to take these the contractual employee needs to work for three months and then they are allowed to take two casual leaves.

**Meager Pay: -**

One of the major disadvantages of contractual job is the wage paid for work. Though the work assigned to the contractual is same or sometimes even more than the work done by permanent employee, the wage rate for contractual employees is extremely less. In a metropolitan city like Mumbai, most of the labours are migrants who do not own a house and are putting up in rental spaces. With rent being too high, meeting the day-to-day expenditure becomes too difficult for them. In addition to this, each of the respondents shared that they have around 4-8 members in the house. This along with the rising inflation rate in last few years is putting their survival at stake. In this context, a respondent, whose husband was a photographer, shared that her husband's job is seasonal and her pay is too less due to this she and her family members often had to face financial issues. Another respondent shared that she has been working in TISS on contractual basis for the last 20 years but neither she is made a permanent employee nor her salary has increased much.

**No Pay for Overtime: -**

The employees are made to work overtime when the other attendant is on leave. This increases the workload of the employee as they have to work overtime to complete the work. However, the current job condition has no provision for pay for overtime. An attendant mentioned that the provision for payment for additional work was there until January 2020 but post that administration removed this provision from their service condition. The employees don't even resist when forced to work overtime due to fear of being fired.

**Lack of Basic Amenities: -**

Another issue faced by the attendants is the lack of amenities. Since the cleaning work involves too much use of water, the attendants are not provided with adequate space to change their uniforms. In addition to this, the job of the attendants is for 9 hours involving heavy physical labour; however, there is no provision of resting place for them in between the breaks.

**No Allowances or Other Benefits: -**

The contractual employees are not given any allowance or concessions from the administration. Even if the employee had to purchase food or tea or snack from the institution's dining hall, they are not given any concessions. They have to purchase the food items at given rate. In addition to this, the employee who have taken up the job post 2010, they are provided with Employee State Insurance card though monthly subscription is being deducted from their monthly salary. In the absence of health benefits from institution, the attendants shared that they either have to rely on municipal hospitals or have to go to private health clinics or visit the doctors on campus

but often the medicines prescribed by them becomes unaffordable for them. Out of the fear, they never question administration as it might lead to termination of their contract.

**Uncertain Future: -**

Though the work period in this arrangement is specified but there is no provision to ensure after how much time will they made permanent employee. This results in exploitation of their labour. An attendant shared that she has been working on contractual basis since last 20 years. Such conditions are too oppressive and demotivating<sup>xx</sup>.

**Loss of Provident Fund: -**

Apart from the aforementioned issues, the workers had to incur financial loss when the tender was given to KHFM in 2010. The switch to KHFM ceased the provident fund of the worker with the earlier contract. In the old regime, amount for provident fund was deducted from our salaries. But when the tender was given to KHFM, the provident funds were ceased. This resulted in workers losing lakhs of the provident fund amount. In this context, an attendant named Sita shared “when KHFM was not there, then lakhs of money was there in my provident fund but as the tender changed, I lost all my money. Now who shall I ask for that money?!” Hence the shift from temporary to contractual form of job proved to be disadvantageous. The following section will discuss the findings.

**Discussion and Conclusion: -**

From the aforementioned findings, it seems that there are several challenges like workload, less wages in comparison to the assigned tasks, absence of bonus and financial increment and deprived of provident funds etc being faced by the contractual labour. This is due to the nature of work arrangement under contractual jobs. The workers are working as much as a permanent employee does without the perks and the benefits that a permanent work arrangement offers. In the absence of time frame for converting them into permanent employment, the employees continue to work under exploitative conditions in the hope of getting permanent someday. Consequently, they are underpaid and denied any security benefits.

The findings corroborate with the claims of Saini (2010) that rights conferred on contract workers by the Constitution of India and various labour laws are poorly enforced<sup>xxi</sup>. In such context, the institute must look into the problem of contract workers as they are providing the major support system in smooth functioning of the institution on day-to-day basis. Otherwise, Rizvi (2019) commented that despite the provisions of labour laws, implementation part remains a serious challenge due to employers' nature to circumvent the law<sup>xxii</sup>. In the same line, Rajeev (2010) also propagated that circumventing labour laws (contract labour) is becoming one of the prominent forms. Majority of the laws addressing labour issues are colonial in nature; hence, they continue to focus on production cost<sup>xxiii</sup>. By using labour rights, interests, employee-employer relationship façade, these laws masked the manipulation and exploitation of labour. The handful of pro-labour laws are yet to be completely implemented. Undoubtedly, they are a way out of unemployment but they fail to address the concerns of the workers.

**Recommendations: -**

In this scenario, the Institution must step in and look into the situation. It should take adequate measures for implementation of pro labour laws and ensure the welfare of contract labour as they are the backbone of the institute. We believe that the ‘reimagining of the future’ cannot proceed by ignoring the plight of the staff who is providing priceless service wholeheartedly to the institute in all seasons. A small perk or increment to their wages can make them smile. Providing for their provident fund will be very beneficial to them and in long run, as a return on investment, TISS can get more efficient staff.

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