

## Challenges of Contractual Labour.

### 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 lacuna in implementation at the ground level. Not only in government set-up, but private and semi-private institutes 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.

*Keywords:* Contract labour, labour law, educational institute

## 24 **Introduction**

25 With the advent of industrial revolution, civilization went through transformation from a feudal  
26 mode of production to the capitalist mode of production. Liberalization, privatization and  
27 globalization (LPG hereafter) of the product market in the 1990s has differently affected  
28 different people. Of the various sections, the effects on the labours have been standing out  
29 prominent<sup>1</sup>. The new order, emerged due to LPG, paved way for different forms of work  
30 arrangement in labour markets. Apart from the permanent form of employment, new forms of  
31 employment like part-time, temporary and contractual emerged<sup>2</sup>. The part time work gave  
32 liberty to the workers to take multiple work in case, they are willing. In this form of work  
33 arrangement workers are paid for the assigned work and no additional work is given to them.  
34 Temporary and contractual work arrangement, on the other hand, gave the worker employment  
35 for a fixed term. The nature and amount of work in contractual jobs is equivalent to that of  
36 permanent job. However, the payment for such employment is way lesser than the permanent  
37 worker. Neither these workers are given additional benefits. As a result, contractual work  
38 arrangement reduced the labour cost. Soon, this cost-effective work arrangement become  
39 lucrative for industries<sup>3</sup>. Many developed and developing countries like Japan, UK, US adopted  
40 this mechanism. Due to the high inflation and rising unemployment before LPG reforms, the  
41 labour too viewed it as a promising arrangement. Consequently, after LPG reforms their  
42 demand got further intensified<sup>4</sup>. The reforms succeeded in bringing down the rising  
43 unemployment rate by providing employment to workforce. However, over the period of time it  
44 has been realized that affects were not as positive it seemed<sup>5</sup>. Not only did it create the  
45 inequality of wage payments and working conditions but also dismantled the very framework  
46 that ensured protection of workers which reference to their security, safety and welfare.

47 Consequently, the labour rights were reduced and their welfare suffered severely<sup>6</sup>. The  
48 propagation of idea ‘last hired, first fired’<sup>7</sup> instilled the constant fear amongst the workers;  
49 thereby, reducing them to hapless lot surviving at the mercy of the resource owners. The  
50 workers strongly opposed this and they soon resorted to collective bargains, protest, to form  
51 cooperative and other labor-friendly forms of economic systems to protect their interests<sup>8</sup>.  
52 Consequently, laws started enacting to protect the workers against exploitation and protect their  
53 rights in the form of labour laws.

54 In this context, this paper the condition of contract labour and its challenges in term of work  
55 arrangement in practice at Tata Institute of Social Sciences, Mumbai. This has been done by  
56 exploring the two contractual workers case who were initially appointed for temporary job and  
57 were later, in 2010, put on contractual job. In doing so, the author will also discuss the  
58 background of labour laws that have been enacted from time to time. The paper is divided in  
59 five sections. First section introduced and contextualized this study. Section two discusses the  
60 background of labour laws. This is will be followed by methodology section in which the  
61 methods and tools are discussed. Fourth section highlights the impact of the contractual work  
62 arrangement. In the last section, the author will conclude the paper. The following section will  
63 discuss the history of their enactment.

#### 64 **Labour Laws and Contract Labour**

65 The idea of labour laws emerged during the resurrection process after World War II. Post War,  
66 the labour Part of Great Britain strongly protested against the state and demanded safeguards  
67 for labours in all the bad as well as good times. In this context, they even published a document  
68 named *Labour and the New Social Order* in 1918. The same year, the British government  
69 agreed to establish industrial bodies named as Whitley Councils for peaceful reconciliation

70 between employers and employees<sup>9</sup>. During this time period, the establishment of an  
71 international body that would define the laws for protection of working class. Consequently,  
72 International Labor Organisation was established under League to Nations in 1919 and the first  
73 International Labour Conference happened in US. During the conference first set of labour  
74 conventions was adopted. Labour laws, thus enacted, define the administrative rulings and legal  
75 rights of workers as well as they restrict the organisations against exploitation of their workers.  
76 They also mediated the relationship between trade unions, employers and employees. In  
77 nutshell, labour laws define the guidelines, obligations and rights of the workers and trade  
78 unions in the workplace. Broadly these laws can be classified in two categories: 1) individual  
79 labour laws that address the individual concerns of the employees and provide remedies for the  
80 same; 2) collective labour laws that deals with the collective concerns of employers, employee  
81 and trade union<sup>10</sup>. These laws ensure that the demands of workers are adequately addressed,  
82 they are sufficiently paid, their working conditions are humane, etc. Labour laws have also been  
83 implemented in India.

#### 84 **History of Labour Laws in India**

85 In India, labour laws were introduced by the colonial regime. In 1881, Factories Act was  
86 enacted. The act granted workers one hour of resting period during the work hours and four  
87 days compulsory off in a month to those workers working in companies or industries that were  
88 using machinery. Undoubtedly, this attempted to safeguard the interests of workers, however,  
89 Indian workers were mostly employed in manual jobs that is why they were at a  
90 disadvantageous position. Again in 1929, Trade Dispute Act was enacted for regulation and  
91 peaceful settlement of disputes between the employer and the employee. The act directed  
92 government for setting up of board of conciliation or adhoc tribunals to investigate matters of

93 industrial disputes arising between the industries/companies and the workers. Such  
94 investigation could be initiated only when both parties in dispute agreed for investigation.  
95 Besides, mention may be made of Payment of wages Act 1936 which guarantees 'payment of  
96 wages on time and without any deductions except those authorised under the Act.' All the  
97 employees have right to get salary which is to be paid from their employer or from the person  
98 responsible to the employer/ the person so nominated. However, under this act, worker cannot  
99 contract out of any right conferred upon him. Indian workers, who were unaware of these  
100 provisions, remained at the disadvantageous position. Consequently, these acts safeguarded the  
101 interests of the Company's workers while Indian workers were left out of the purview of these  
102 act's safeguards. In other words, the exploitation of Indian workers continued.

103 By virtue, Indian labour law is aligned with western principles and most of its fundamentals are  
104 derived from International Labour Organisation standards<sup>11</sup>. Besides, some laws were drafted  
105 soon after the independence. Consequently, soon after attaining independence, Indian state  
106 amended labour laws as it intended to promote clear and cordial relationships between the  
107 workers and employers. Time and again these laws provided guidelines to safeguard the  
108 interests of employees. In this context, the first law enacted was Industrial Dispute Act, 1947<sup>12</sup>.  
109 This was done to maintain and promote peaceful work environment to workers. Significance of  
110 this act was provision of both internal and external mechanisms to settle industrial disputes  
111 where - internal mechanisms include grievance redressal committee. Further, Minimum Wages  
112 Act 1948, Section 3 instigate to regulate minimum rate of wages for – meeting the cost of living  
113 applicable to the worker through facing basic rate of wages and special allowance. It also  
114 considers meeting the cost of essential commodities at concessional rates<sup>13</sup>. As a social  
115 safeguarding device, Employees' State Insurance Act, 1948 come up to safeguard interest of

116 employees from loss and uncertainty during their job tenure. This act covers all factories and  
117 other establishments that employ 10 or more persons – concerned with medical care, maternity  
118 or factory accidents and medical care to family members. Furthermore, the act like Payment of  
119 Bonus Act of 1965 that make responsible for contractual obligation on employers to pay  
120 bonuses to employees and Employees' Provident Fund Scheme, 1952 – provision for post-  
121 retirement benefit for the employees<sup>14</sup>.

122 The culture of employment was becoming predominated by contract system. In India, contract  
123 workers have been engaged in activities necessitated by seasonal/occasional requirements of  
124 employers, generally in temporary mode<sup>15</sup>. The main purpose of adopting contract employment  
125 structure is to cope with a volatile, uncertain, complex and ambiguous (VUCA) environment<sup>16</sup>.  
126 However, despite the fact that contract labour system contributes to economic and financial  
127 feasibility, most of the contractors are indulged in misuse of the worker – like: by creating the  
128 fear of sacking among the worker rendering them vulnerable<sup>17</sup>.

129 In order to protect the rights of contractual workers, the Contract Labour Act was enacted in  
130 1970. This act authorised both the Central and state government to administer and regulate  
131 contract labour work. Having said that, it cannot be ignored that under the Contract Labour Act,  
132 the worker must be paid with minimum wages (as prescribed); must cover health and welfare  
133 measure that includes – safe drinking water, toilets, canteen facilities, first aid facilities etc; as  
134 well as social security like provident fund and medical facilities. Later in 2016, the Union  
135 Ministry of Labour and Employment India notified an amendment to reduce the excessive  
136 dependence on unregulated state of contract labour and proposed to extend fixed-term  
137 employment<sup>18</sup>. Notwithstanding it, in India, the contractual labour system is increasing but its  
138 implementation is far lagging behind the expected milestones. In this parlance, Theron (2002)

139 asserted that ‘on the surface all is well. On the ground, things could hardly be worse<sup>19</sup>.’  
140 Despite the existing provisions and safeguards, the question we are propagating is that – how  
141 far the implementing is happening? The question addressing is in term of contractual workers  
142 continue to be overworked, underpaid and work under inhumane conditions. In this context,  
143 this paper discusses the contractual job positions and their conditions at one of the pioneer  
144 institute India popularly named as Tata Institute of Social Science (TISS hereafter). TISS is  
145 quite popular for many social sciences courses like social work, women studies, development  
146 studies, labour and livelihood studies etc. From these courses, one can understand that TISS  
147 focuses on imparting education on the issues and concerns of marginalized and minorities.  
148 However, not much is being done from the institute’s end for providing safeguards to its  
149 contractual workers. Due to this, exploring the contractual jobs conditions in TISS becomes an  
150 interesting case.

### 151 **Materials and Methods**

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

### 160 **Results of the study**

161 Tata Institute of Social Sciences (TISS), one of the premium institutes of India specially in the

162 domain of Social Sciences, is a multicampus public research university. The institute has satellite  
163 campuses across India i.e., rural campus in Tuljapur, Maharashtra and two off-campus in  
164 Guwahati and Hyderabad. Popularly, this institute is considered to be a pioneer institute in social  
165 work education (specially in offering Master programmes) as well as Asia's oldest institute for  
166 professional social work education. It is established in 1936 recognised as deemed university  
167 under Section 3 of the University Grants Commission Act (UGC) in 1956. As most organisation  
168 does, TISS also adopted contract system for its optimum and effective performance. As a result,  
169 the administrative system has both permanent staff as well as contractual staff. Though the  
170 institute has rooted in social justice and claiming rights for marginalised people, it has its  
171 limitation in addressing the safeguard and requirement of contract worker. There are many  
172 reasons behind the lacuna in this area – some of the reasons are shrink in fund allocation by  
173 UGC, financial crunch within the institute and limitation of funding sources from Tata Trust (its  
174 parent funder) etc. Due to this, there are many challenges that contractual labours of the institutes  
175 face. Having said that, without indulging in the debate of financial limitation, this study attempts  
176 to explore the aspects of contract labour condition and the challenges they are facing in TISS,  
177 Mumbai Campus. The following sections will highlight the contract worker's perspective.

### 178 **Impact of Contractual Arrangement on Workers:**

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

185 ***Heavy Workload***

186 The contractual employees have long and hectic work hours. The hostel has six floors and each  
187 floor has ten rooms. Apart from these, every floor has common spaces like corridors and  
188 staircase. Each attendant is responsible for cleaning three floors i.e., thirty rooms and common  
189 spaces. Attendants work for 9 hours i.e., from 6:30 am till 3:30 pm and from 12:00 pm till 9:00  
190 pm. During these long shifts, breaks are seldom given to them except for lunch hour. The  
191 respondents said that the number of paid leaves has also been reduced. Earlier they could take  
192 2.5 paid leave in a month but now it has been reduced to 2 paid leaves in a month. They are also  
193 entitled 8 casual leaves in a year. However, even to take these the contractual employee needs  
194 to work for 3 months and then they are allowed to take 2 casual leaves.

195 ***Meager Pay***

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

208 ***No pay for overtime***

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

215 ***Lack of Basic Amenities***

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

220 ***No allowances or other benefits***

221 The contractual employees are not given any allowance or concessions from the administration.  
222 Even if the employee had to purchase food or tea or snack from the institution's dining hall,  
223 they are not given any concessions. They have to purchase the food items at given rate. In  
224 addition to this, the employee who have taken up the job post 2010, they are provided with  
225 Employee State Insurance card though monthly subscription is being deducted from their  
226 monthly salary. In the absence of health benefits from institution, the attendants shared that  
227 they either have to rely on municipal hospitals or have to go to private health clinics or visit the  
228 doctors on campus but often the medicines prescribed by them becomes unaffordable for them.  
229 Out of the fear, they never question administration as it might lead to termination of their  
230 contract.

231 ***Uncertain future***

232 Though the work period in this arrangement is specified but there is no provision to ensure after  
233 how much time will they made permanent employee. This results in exploitation of their labour.

234 An attendant shared that she has been working on contractual basis since last 20 years. Such  
235 conditions are too oppressive and demotivating<sup>20</sup>.

236 ***Loss of Provident Fund***

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

246 **Discussion and Conclusion**

247 From the aforementioned findings, it seems that there are several challenges like workload, less  
248 wages in comparison to the assign task, absence of bonus and financial increment and devoid  
249 from provident funds etc being faced by the contractual labour. This is due to the nature of  
250 work arrangement under contractual jobs. The workers are working as much as a permanent  
251 employee does without the perks and the benefits that a permanent work arrangement offers. In  
252 the absence of time frame for converting them into permanent employment, the employees  
253 continue to work under exploitative conditions in a hope of getting permanent someday.

254 Consequently, they are underpaid and denied of any security benefits.  
255 The findings corroborate with the claims of Saini (2010) that rights conferred on contract  
256 workers by the Constitution of India and various labour laws are poorly enforced<sup>21</sup>. In such  
257 context, the institute must look into the problem of contract workers as they are providing the  
258 major support system in smooth functioning of the institution on day-to-day basis. Otherwise,  
259 Rizvi (2019) commented that despite the provisions of labour laws, implementation part  
260 remains a serious challenge due to employers' nature to circumvent the law<sup>22</sup>. In the same line,  
261 Rajeev (2010) also propagated that circumventing labour laws (contract labour) is becoming  
262 one of the prominent forms. Majority of the laws addressing labour issues are colonial in  
263 nature; hence, they continue to focus on production cost<sup>23</sup>. By using labour rights, interests,  
264 employee-employer relationship façade, these laws masked the manipulation and exploitation  
265 of labour. The handful of pro-labour laws are yet to be completely implemented. Undoubtedly,  
266 they are a way out of unemployment but they fail to address the concerns of the workers.

### 267 **Recommendations**

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

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