



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

ABOUT WHITE BLACK LEGAL

White Black Legal – The Law Journal is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

CONTRACT LABOUR AND CORPORATE LIABILITY: EXAMINING THE LEGAL CHALLENGES OF OUTSOURCING AND WORKFORCE ABSORPTION IN INDIA

AUTHORED BY - P.J.SRUSHTI

ABSTRACT

Contract labour refers to workers hired through intermediaries (contractors) rather than directly by the principal employer. Companies increasingly rely on outsourcing and contract labour for workforce flexibility, cost optimization, and specialized services. However, this arrangement creates significant legal problems concerning worker protection, statutory compliance, and corporate liability. The central tension lies between corporate flexibility needs and adequate worker protection under Indian labour law. This paper examines the extent to which principal employers can be held legally responsible for contract workers, particularly when contract labour arrangements are abolished. A major controversy surrounds whether abolition automatically creates a right to absorption as regular employees. Indian courts have played a crucial role in shaping this jurisprudence, with landmark decisions in *Air India Statutory Corporation v. United Labour Union* (1997) and *Steel Authority of India Ltd. v. National Union Waterfront Workers* (2002) representing divergent judicial approaches. This research paper critically examines the legal framework governing contract labour, the allocation of liability between principal employers and contractors, the evolution of judicial interpretation on absorption rights, and contemporary compliance challenges faced by corporations. The paper ultimately analyses whether the existing legal framework adequately balances worker protection with corporate operational flexibility.

KEYWORDS: Contract Labour, Principal Employer, Contractor, Absorption, Abolition, CLRA Act 1970, Corporate Liability, Outsourcing, Air India Case, SAIL Case

1. INTRODUCTION

1.1 Meaning and Concept of Contract Labour

Contract labour refers to workers who are employed by a contractor or intermediary and deployed to work for a principal employer. The contractual relationship exists between the worker and the contractor, not directly with the principal employer where the work is actually

performed. A contract worker is an employee of the contractor who supplies labour to the principal employer. The contractor is the immediate employer who recruits, pays wages, and maintains formal employment relationships with workers. The principal employer is the establishment or company where the work is actually performed and who benefits from the labour supplied through the contractor. This arrangement differs fundamentally from direct employment, where the worker has a direct contractual relationship with the employer, receives benefits directly, and enjoys greater job security and statutory protections.

1.2 Growth of Outsourcing in Corporate Workplaces

Businesses increasingly utilize contract labour and outsourcing arrangements for several legitimate operational reasons. Workforce flexibility allows companies to adjust labour requirements based on project demands, seasonal variations, and business cycles without long-term employment commitments. Specialized services enable access to expertise in non-core activities such as housekeeping, security, maintenance, and IT services without developing in-house capabilities. Cost considerations make contract labour attractive as it reduces overhead costs associated with permanent employment, including benefits, pensions, and long-term liabilities. Temporary and project-based requirements justify contract arrangements for specific assignments with defined durations. Outsourcing non-core activities allows corporations to focus managerial attention and resources on core business functions while specialized contractors handle ancillary services. These business rationales must be balanced against worker protection concerns.

1.3 The Legal Problem

The central legal problem arises when companies obtain labour through contractors: to what extent should the principal employer remain legally responsible for those workers? While the formal employment relationship exists between the worker and contractor, the work is performed under the supervision and for the benefit of the principal employer. This creates uncertainty regarding statutory obligations, liability for wage defaults, welfare provisions, and workplace safety. The most significant controversy concerns whether contract labour can claim absorption as regular employees of the principal employer after abolition of contract labour in particular activities. This question has generated extensive judicial debate and represents a critical issue affecting millions of workers and thousands of establishments across India.

2. OBJECTIVES OF THE RESEARCH

This research paper pursues the following objectives: To examine the legal framework governing contract labour in India, including the Contract Labour (Regulation and Abolition) Act, 1970 and related legislation. To analyse the responsibilities and liabilities of the principal employer and contractor in contract labour arrangements. To examine judicial approaches towards abolition and absorption of contract labour, particularly through landmark Supreme Court decisions. To analyse the legal significance of *Air India Statutory Corporation v. United Labour Union* (1997) and *Steel Authority of India Ltd. v. National Union Waterfront Workers* (2002). To identify contemporary challenges in corporate compliance concerning contract labour, including the impact of recent labour code reforms.

3. RESEARCH QUESTIONS

This paper addresses the following research questions: RQ1: What is the extent of legal responsibility of a principal employer towards contract labour? RQ2: How does the legal framework regulate the relationship between the principal employer, contractor and contract workers? RQ3: Does abolition of contract labour automatically create a right to absorption or regularisation by the principal employer? RQ4: How have Indian courts interpreted the rights of contract workers and the obligations of principal employers? RQ5: What are the major legal and compliance challenges faced by corporations employing contract labour?

4. RESEARCH METHODOLOGY

This paper employs doctrinal legal research methodology, which is appropriate for analysing statutory provisions, judicial precedents, and legal principles. The research relies on primary and secondary legal sources to construct a comprehensive analysis of contract labour regulation in India. Primary sources include the Contract Labour (Regulation and Abolition) Act, 1970, relevant provisions of the Occupational Safety, Health and Working Conditions Code, 2020, constitutional provisions relating to labour rights, and landmark judicial decisions of the Supreme Court of India. Secondary sources encompass academic articles published in law journals, research papers, books on labour law, government reports, commentaries on labour legislation, and materials from online legal databases. The analytical approach combines statutory interpretation, case law analysis, and critical evaluation of the existing legal framework to identify gaps, inconsistencies, and areas requiring reform.

5. CONCEPT AND NATURE OF CONTRACT LABOUR

Contract labour represents a tripartite employment relationship involving the contract worker, the contractor (immediate employer), and the principal employer (where work is performed). Under Section 2(1)(b) of the Contract Labour (Regulation and Abolition) Act, 1970, "contract labour" refers to a worker who shall be deemed to be employed 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. The contractor is defined under Section 2(1)(c) as a person who undertakes to produce a given result for the establishment, other than a mere supply of goods, through contract labour or who supplies contract labour for any work of the establishment. The principal employer, under Section 2(1)(g), means the owner or occupier of the establishment and includes any person responsible for supervision and control. This triangular relationship creates legal complexity because while the contractor maintains formal employment relationships (recruitment, wage payment, termination), the principal employer benefits from the labour and exercises varying degrees of control over work performance.

6. CONSTITUTIONAL AND LEGAL FRAMEWORK

6.1 Constitutional Framework

Contract labour regulation in India must be understood within the broader constitutional framework protecting worker rights. Article 14 guarantees equality before law and equal protection of laws, which has been interpreted to prohibit arbitrary discrimination between workers performing similar work. Article 19(1)(g) provides the right to practice any profession or carry on any occupation, trade or business, subject to reasonable restrictions in public interest. Article 21's right to life and personal liberty has been interpreted to include the right to livelihood and humane working conditions. The Directive Principles of State Policy provide crucial guidance: Article 39 mandates that the State shall direct its policy towards securing adequate means of livelihood for all citizens and equal pay for equal work for both men and women. Article 41 requires the State to make effective provision for securing the right to work, education, and public assistance. Article 42 directs the State to make provision for securing just and humane conditions of work and for maternity relief. Article 43 requires the State to endeavour to secure workers' participation in management. These constitutional provisions establish the foundation for labour legislation balancing worker protection with economic development needs.

6.2 Contract Labour (Regulation and Abolition) Act, 1970

The Contract Labour (Regulation and Abolition) Act, 1970 (CLRA Act) is the primary legislation governing contract labour in India. The Act applies to establishments employing 20 or more contract labourers on any day of the preceding 12 months, and contractors employing 20 or more workers. Key provisions include: Registration of establishments under Section 7 requires principal employers to register establishments employing contract labour, with failure constituting an offence. Licensing of contractors under Section 12 mandates that contractors obtain licenses before supplying contract labour, with conditions regarding welfare facilities and wage payments. Welfare measures under Sections 16-18 require provision of canteens, restrooms, drinking water, latrines, washing facilities, and first aid facilities for contract workers. Health and safety provisions under Section 19 empower appropriate governments to make rules for worker safety. Wages under Section 21 make the principal employer liable to ensure payment of wages by the contractor, with responsibility to pay unpaid wages if the contractor defaults. Regulation under Section 10 empowers appropriate governments to prohibit contract labour in specific processes, operations, or work through notifications. The Act establishes a comprehensive regulatory framework but leaves significant questions regarding absorption rights unanswered.

7. PRINCIPAL EMPLOYER, CONTRACTOR AND CONTRACT WORKER

The critical legal question is whether companies can avoid labour-law obligations merely because workers are formally employed through contractors. Courts have increasingly recognized that formal contractual relationships must be examined alongside actual control, supervision, and statutory responsibility. The distinction between the formal employment relationship (worker-contractor) and the actual work relationship (worker-principal employer) creates legal uncertainty. Principal employers cannot entirely disclaim responsibility for workers performing work on their premises under their supervision, even when formal employment contracts exist with contractors. This tension between formal legal relationships and practical workplace realities underlies much of the judicial controversy surrounding contract labour regulation.

Key Responsibilities and Liabilities:

Principal employer

- Wage payment: bears secondary liability and must pay unpaid wages if the contractor defaults under Section 21.

- Registration and licensing: must register the establishment under Section 7 and ensure engagement is through a compliant contractor arrangement.
- Welfare and safety: must provide or ensure prescribed workplace welfare and safe working conditions as required by applicable law.
- Supervision: may exercise control over work performance at the establishment, while the contractor remains the immediate employer.
- Termination: may terminate the contract with the contractor; contract workers remain vulnerable to termination without the protections of direct employment.
- Contractor
- Wage payment: bears primary responsibility for timely payment of wages and statutory employment obligations.
- Welfare facilities: must provide prescribed amenities and maintain overall welfare compliance.
- Health and safety: must ensure workers follow safety protocols and comply with applicable workplace requirements.
- Employment records and discipline: maintains employment records and manages the employment relationship with workers.

8. CONTRACT LABOUR IN CORPORATE OUTSOURCING

8.1 Why Corporations Outsource Labour

Operational flexibility allows adjustment of workforce size based on business demands without the constraints of permanent employment. Cost optimization reduces expenses related to employee benefits, pension contributions, gratuity, and long-term liabilities. Access to specialized expertise enables companies to leverage contractor specialization in areas like security, housekeeping, facility management, and IT services. Focus on core competencies allows management to concentrate resources on primary business activities while contractors handle ancillary functions. Risk transfer shifts certain employment-related risks to contractors, though this transfer is not absolute under Indian law.

8.2 Legal Advantages and Risks of Outsourcing

Outsourcing provides legal advantages including reduced direct employment obligations, flexibility in workforce management, and simplified termination processes through contract termination rather than individual dismissals. However, significant risks exist. Principal

employers face joint liability for wage defaults under Section 21 of the CLRA Act. Statutory compliance failures by contractors can expose principal employers to penalties and prosecution. Reputational risks arise from worker protests, media coverage of labour violations, and consumer activism. Legal challenges regarding absorption claims create uncertainty and potential financial liabilities. Regulatory scrutiny has increased, particularly with the implementation of new labour codes.

8.3 Labour-Law Compliance in Outsourcing Arrangements

Effective compliance requires comprehensive due diligence when engaging contractors. Principal employers must verify contractor registration and licensing under applicable labour laws. Contract agreements should explicitly allocate compliance responsibilities and indemnification provisions. Regular audits of contractor compliance with wage payments, welfare facilities, and statutory contributions (PF, ESIC) are essential. Documentation must include valid contracts, compliance certificates, and records of inspections. Monitoring systems should track contractor performance and address worker grievances promptly. The new Labour Codes (effective November 2025) have strengthened principal employer obligations, making compliance even more critical.

8.4 Corporate Liability for Contractor Violations

Principal employers cannot completely insulate themselves from contractor violations. Under

Section 21 of the CLRA Act, if contractors fail to pay wages within the prescribed period, principal employers must pay the full unpaid balance and recover from contractors. The Occupational Safety, Health and Working Conditions Code, 2020 (effective November 2025) places primary responsibility on principal employers to provide welfare facilities to contract workers working at their premises. If contractors fail to pay minimum bonus, principal employers must pay upon written notice from employees or trade unions. Principal employers must address contract labour grievances related to health, working conditions, or wages through grievance committees. These provisions demonstrate that statutory liability cannot be entirely contracted away through outsourcing arrangements.

8.5 Risk of Disguised Employment

A significant legal risk involves 'disguised employment' where ostensibly independent contractor relationships are actually employment relationships in substance. Courts examine

multiple factors including the degree of control exercised over workers, integration into the principal employer's operations, exclusivity of service, provision of tools and equipment, and economic dependence. If relationships are characterized as disguised employment, principal employers face liability for all statutory employment obligations including minimum wages, working hours, social security contributions, and termination benefits. The new Labour Codes maintain scrutiny of such arrangements, with the threshold for contract labour provisions raised to 50 or more workers but principal employer liability remaining unchanged.

9. REGULATION AND ABOLITION OF CONTRACT LABOUR

'Abolition' under the CLRA Act refers to the prohibition of contract labour in specific processes, operations, or work within establishments. Section 10(1) empowers the appropriate government (Central or State) to prohibit employment of contract labour in any process, operation, or other work in any establishment after consultation with the Central or State Advisory Board. The appropriate government must consider whether the work is incidental or necessary to the industry, whether it is perennial in nature, whether it is done ordinarily through regular workmen, and whether it is sufficient to employ a considerable number of whole-time workmen.

Circumstances relevant to abolition include:

The nature of work (perennial vs. temporary) The extent of work (considerable number of workers required) Whether the work is incidental or necessary to the establishment Whether similar work is performed by regular employees Whether abolition serves worker interests without unduly burdening the establishment

Consequences of abolition include:

Prohibition of contract labour in specified activities Requirement for establishments to either discontinue the work or employ workers directly Potential displacement of contractors from the establishment Uncertainty regarding the status of existing contract workers The critical unanswered question is whether abolished contract workers automatically become direct employees of the principal employer.

10. THE CONTROVERSY REGARDING WORKFORCE ABSORPTION

The absorption controversy represents one of the most significant unresolved questions in Indian labour law. 'Abolition' means contract labour is prohibited in particular activities, while 'absorption' means workers become regular, direct employees of the principal employer with

all attendant benefits and protections. The critical legal question is whether abolition automatically leads to absorption.

Worker Advocates' Perspective:

Abolition removes the intermediary (contractor), establishing a direct relationship between workers and principal employer, which should logically result in absorption to prevent worker displacement and protect livelihoods.

Employers' Perspective:

The CLRA Act contains no express provision for automatic absorption. Abolition merely prohibits contract labour without mandating direct employment. Absorption would impose significant financial burdens and disrupt organizational structures. This controversy has generated conflicting judicial approaches, with the Supreme Court initially favoring absorption in *Air India* (1997) but subsequently rejecting automatic absorption in *SAIL* (2002), creating ongoing legal uncertainty affecting millions of workers.

11. AIR INDIA STATUTORY CORPORATION V. UNITED LABOUR UNION (1997)

Facts:

Air India Statutory Corporation employed contract labour for sweeping, cleaning, dusting, washing, and watching buildings through contractors. On December 9, 1976, the Central Government issued a notification under Section 10(1) of the CLRA Act prohibiting contract labour for these activities in establishments where the Central Government was the appropriate government. The United Labour Union challenged Air India's continued use of contract labour despite the abolition notification.

Legal Issue:

Whether the abolition notification under Section 10(1) automatically entitled contract workers to absorption as direct employees of Air India, and whether the High Court could direct absorption without requiring workers to seek reference under the Industrial Disputes Act, 1947.

Court's Reasoning:

A three-judge Supreme Court bench held that upon abolition of contract labour, the intermediary (contractor) is removed from the field, establishing a direct linkage between labour and principal employer. The Court reasoned that the Act did not intend to denude contract labour of their source of livelihood. Since contract labour stood prohibited, the principal employer could not continue employing workers through contractors. By necessary

implication, the principal employer became obligated to absorb the contract labour to prevent workers from being left unemployed.

Decision:

The Supreme Court directed that all workmen engaged in sweeping, cleaning, dusting, washing, and watching should be absorbed as direct employees of Air India Statutory Corporation with effect from the date of their joining. The Court held that on abolition, a direct relationship gets established between workmen and principal employer, and the principal employer cannot continue contract labour.

Significance:

The Air India judgment represented a worker-protective approach, prioritizing livelihood security over corporate flexibility. It established that abolition implicitly requires absorption to prevent worker displacement. However, this approach created concerns among employers regarding financial liabilities and organizational restructuring. The judgment remained precedent for only five years before being overruled.

12. SAIL V. NATIONAL UNION WATERFRONT WORKERS (2002)

Facts:

Steel Authority of India Ltd. (SAIL) employed contract labour through contractors for various operations. The appropriate government issued notifications under Section 10(1) of the CLRA Act abolishing contract labour in certain processes. The National Union Waterfront Workers claimed that abolition automatically entitled contract workers to absorption as SAIL employees.

Issues:

Whether Section 10 of the CLRA Act provides for automatic absorption of contract labour upon abolition. Whether the Air India judgment correctly interpreted the legal consequences of abolition. What remedies are available to contract workers upon abolition.

Judgment:

A Constitution Bench of the Supreme Court overruled the Air India judgment, holding that neither Section 10 of the CLRA Act nor any other provision, whether expressly or by necessary implication, provides for automatic absorption of contract labour upon issuance of abolition notifications. The Court held that the appropriate government's notification prohibiting contract labour does not entail automatic absorption, and consequently, the principal employer cannot be required to absorb contract workers. The Court reasoned that if Parliament intended

automatic absorption, it would have expressly provided for it in the statute.

Treatment of Air India Approach:

The SAIL judgment explicitly overruled Air India's reasoning regarding automatic absorption. The Constitution Bench held that Air India's interpretation went beyond the statutory language and created obligations not contemplated by the legislature. The Court emphasized that courts cannot legislate by reading provisions into statutes that do not exist.

Significance:

The SAIL judgment represents a shift toward textual interpretation and employer flexibility. It clarified that abolition does not automatically create absorption rights, leaving workers to pursue remedies through industrial dispute mechanisms under the Industrial Disputes Act. However, the judgment created new uncertainty, as workers whose contract labour is abolished face displacement without guaranteed alternative employment. The decision prioritized statutory text over worker-protective implications.

13. COMPARATIVE ANALYSIS OF THE TWO JUDGMENTS

The evolution from Air India to SAIL demonstrates a significant shift in Indian judicial interpretation of contract labour rights. Air India's purposive approach prioritized worker protection and livelihood security, reading absorption obligations into the statute by necessary implication. SAIL's textual approach emphasized strict statutory interpretation, refusing to create obligations not expressly provided by Parliament. This shift reflects broader tensions in labour law between protective legislation and business flexibility. The current legal position (post-SAIL) provides greater certainty for employers but leaves workers vulnerable upon abolition without guaranteed absorption. Workers must now pursue absorption claims through industrial dispute mechanisms, which are lengthier and less certain than the automatic absorption previously available under Air India. Key differences: Air India held that abolition removes contractor, establishing direct employer-employee relationship, while SAIL held that abolition merely prohibits contract labour without creating direct employment. Air India supported automatic absorption by necessary implication to protect worker livelihood, while SAIL rejected automatic absorption; statute contains no express provision. Air India held the principal employer is obligated to absorb workers as direct employees upon abolition, while SAIL held the principal employer is not required to absorb workers; can discontinue work. Air India treated contract workers protectively prioritizing job security and livelihood, while SAIL took a textual approach leaving workers to pursue remedies. Air India used purposive

interpretation favoring worker protection, while SAIL used textual interpretation emphasizing legislative intent. Air India was overruled by SAIL (2002), while SAIL is the current binding precedent.

14. CORPORATE LABOUR-LAW COMPLIANCE CHALLENGES

14.1 Contractor Compliance

Companies face significant challenges ensuring contractor compliance with labour laws.

Principal employers must verify that contractors maintain valid licenses under the CLRA Act (or OSH Code for establishments with 50+ contract workers). Regular audits are necessary to confirm contractors comply with minimum wage requirements, working hour limitations, and statutory contributions (PF, ESIC, bonus). Contract agreements should include indemnification clauses protecting principal employers from contractor violations. However, statutory liability cannot be completely contracted away, making due diligence essential.

14.2 Wage Compliance

Wage compliance represents a critical risk area. Under Section 21 of the CLRA Act and corresponding provisions in the OSH Code, principal employers bear secondary liability for wage defaults by contractors. If contractors fail to pay wages within prescribed periods, principal employers must pay the full unpaid balance. The new Labour Codes (2025) strengthen this by requiring principal employers to pay minimum bonus if contractors default. Companies must implement systems to monitor contractor wage payments, including reviewing payrolls, conducting worker interviews, and maintaining grievance mechanisms.

14.3 Welfare and Safety Obligations

The Occupational Safety, Health and Working Conditions Code, 2020 places primary responsibility on principal employers to provide welfare facilities to contract workers at their premises. This includes toilets, washrooms, drinking water, bathing facilities, changing rooms, first aid boxes, canteens, and creche facilities. Principal employers cannot delegate these obligations entirely to contractors. Failure to provide prescribed welfare facilities exposes companies to penalties and prosecution. The threshold for applicability has increased to 50 or more contract workers (from 20 under CLRA Act), but principal employer responsibilities remain substantial.

14.4 Documentation and Record Keeping

Comprehensive documentation is essential for compliance. Principal employers must maintain records of contractor registration and licensing, valid contract agreements specifying compliance responsibilities, certificates of contractor compliance with statutory obligations, records of welfare facility provision, grievance redressal documentation, and audit reports. The new Labour Codes require appointment letters for all workers (including contract labour), maintenance of digital records, and submission of periodic returns. Inadequate documentation creates vulnerability during inspections and legal disputes.

14.5 Principal-Employer Risk

Principal employers face multiple risks from contractor defaults. Statutory liability for unpaid

wages creates direct financial exposure. Penalties for contractor licensing violations can extend to principal employers. Prosecution risks exist for serious violations including non-payment of minimum wages or safety failures. Civil liability may arise from worker injuries or occupational diseases. Reputational damage from labour violations can affect brand value and customer relationships. The new Labour Codes increase scrutiny of principal employer oversight, making proactive compliance management essential.

14.6 Legal and Reputational Risk

Labour-law violations create consequences beyond immediate worker disputes. Worker protests and strikes disrupt operations and attract media attention. Consumer activism targeting companies with poor labour practices affects sales and brand perception. Investor scrutiny of ESG (Environmental, Social, Governance) performance influences capital access and valuation. Regulatory enforcement actions create legal costs and management distraction. Class-action litigation by workers creates financial liability and precedent risks. Companies must integrate labour compliance into overall risk management frameworks, not treat it as a peripheral operational issue.

15. WORKFORCE ABSORPTION: COMPETING LEGAL PERSPECTIVES

15.1 Workers' Perspective

From the workers' standpoint, absorption represents job security, continuity of employment, and access to social security benefits. Contract workers performing perennial work alongside regular employees experience inequity in wages, benefits, and working conditions. Absorption

provides protection from arbitrary termination, access to grievance mechanisms, and eligibility for promotions and career advancement. Workers argue that if their work is essential and perennial to the establishment, they deserve the same protections as direct employees. The Air India judgment validated this perspective by recognizing that abolition should not leave workers unemployed. However, SAIL's rejection of automatic absorption leaves workers vulnerable to displacement without alternative employment guarantees.

15.2 Corporate Perspective

Corporations emphasize workforce flexibility, organizational structure, and financial implications. Outsourcing arrangements allow companies to adjust labour based on business needs without long-term commitments. Absorption would significantly increase fixed labour costs, including salaries, benefits, pensions, and gratuity liabilities. Managerial autonomy over workforce composition would be constrained. Companies argue that contract labour serves legitimate business purposes and that mandatory absorption would discourage outsourcing, potentially reducing overall employment. The SAIL judgment validated this perspective by refusing to impose absorption obligations not expressly provided in statute. However, this approach has been criticized for prioritizing corporate flexibility over worker livelihood security.

15.3 Legal Perspective

The key legal question is when contract workers should acquire rights against the principal employer. Current law (post-SAIL) provides that abolition does not automatically create absorption rights, leaving workers to pursue remedies through industrial dispute mechanisms. However, principal employers retain statutory obligations for wage payment, welfare facilities, and workplace safety regardless of absorption status. Some courts have recognized absorption rights in specific circumstances, particularly where contract labour arrangements are sham transactions designed to avoid direct employment obligations. The tension between textual statutory interpretation (SAIL) and purposive worker-protective approaches (Air India) continues to generate jurisprudential uncertainty. Legislative clarity on absorption rights would benefit both workers and employers by providing predictable legal frameworks.

16. CRITICAL ANALYSIS

A. Is the existing framework sufficiently clear?

The current legal framework lacks clarity on critical issues, particularly regarding absorption rights. The CLRA Act is silent on whether abolition creates absorption obligations, leaving courts to fill statutory gaps. The conflicting Air India and SAIL judgments create uncertainty about judicial approaches. The new Labour Codes maintain this ambiguity, focusing on procedural compliance rather than substantive worker rights. This uncertainty disadvantages both workers (who cannot predict absorption rights) and employers (who face unpredictable litigation risks).

B. Does outsourcing create uncertainty regarding responsibility?

Outsourcing arrangements create significant uncertainty about statutory responsibility. While the CLRA Act and OSH Code allocate specific obligations between principal employers and contractors, practical enforcement is complicated by triangular employment relationships. Workers often cannot distinguish between contractor and principal employer responsibilities. Principal employers may claim ignorance of contractor violations. Regulatory authorities face challenges identifying responsible parties during inspections. This uncertainty undermines effective enforcement and worker protection.

C. Does the distinction between contractor and principal employer adequately protect workers?

The formal distinction between contractor and principal employer often fails to adequately protect workers. Contract workers performing identical work alongside regular employees receive inferior wages, benefits, and job security. The legal framework's focus on formal employment relationships ignores practical workplace realities where principal employers exercise substantial control over contract workers. While statutory provisions impose some obligations on principal employers, these are insufficient to ensure equal treatment. The absorption controversy exemplifies this inadequacy, as workers face displacement upon abolition without guaranteed alternative employment.

D. Does the law sufficiently balance worker protection and corporate flexibility?

The current legal framework inadequately balances worker protection and corporate flexibility. The post-SAIL position favors employer flexibility by rejecting automatic absorption, but leaves workers vulnerable to displacement. The pre-SAIL Air India approach protected workers but imposed significant burdens on employers. Neither extreme achieves optimal balance. A more nuanced approach might recognize absorption rights in specific circumstances (e.g., perennial work, long-term contract employment, sham contractor relationships) while

preserving legitimate outsourcing flexibility for temporary or specialized services. The new Labour Codes miss this opportunity by maintaining statutory silence on absorption.

E. Is the jurisprudence on absorption consistent?

The jurisprudence on absorption is notably inconsistent. The Supreme Court's *Air India* judgment (1997) recognized automatic absorption upon abolition, while the Constitution Bench in *SAIL* (2002) explicitly overruled this approach. Lower courts have issued conflicting decisions, some following *Air India*'s worker-protective logic and others adhering to *SAIL*'s textual interpretation. This inconsistency creates forum-shopping incentives and unpredictable outcomes for similarly situated workers. Legislative intervention clarifying absorption rights would promote consistency and reduce litigation.

F. What compliance difficulties do corporations face?

Corporations face multiple compliance difficulties. Monitoring contractor compliance across multiple locations and contractors is resource-intensive. Statutory liability for contractor defaults creates financial risks beyond companies' direct control. Varying state-level rules under the new Labour Codes create inter-jurisdictional complexity. Documentation requirements (appointment letters, digital records, periodic returns) increase administrative burdens. Grievance redressal obligations require dedicated infrastructure. Balancing compliance costs with operational efficiency creates ongoing management challenges. These difficulties are compounded by limited guidance on practical compliance implementation.

17. RECOMMENDATIONS

1. Clearer allocation of statutory responsibility: Legislation should explicitly delineate responsibilities between principal employers and contractors. The CLRA Act's successor provisions in the OSH Code should specify which obligations are primary (contractor) versus secondary (principal employer). Clear allocation would reduce uncertainty and facilitate compliance.
2. Stronger contractor compliance mechanisms: Regulatory frameworks should strengthen contractor compliance through enhanced licensing requirements, mandatory compliance bonds or deposits, regular third-party audits, and graduated penalties for repeat violations. Principal employers should be required to engage only licensed contractors with verified compliance records.
3. Better monitoring of labour conditions: Regulatory authorities should implement proactive monitoring systems including unannounced inspections, worker

interviews conducted privately, digital compliance reporting systems, and whistleblower protection mechanisms. Principal employers should be required to conduct and report regular compliance audits of their contractors.

4. Clearer rules concerning prohibited contract labour: The criteria for abolition notifications under Section 10 should be clarified through rules specifying which activities are inappropriate for contract labour. Perennial, core activities should be presumptively inappropriate for contract labour, while temporary, seasonal, or specialized services remain eligible. Clear criteria would reduce litigation over abolition notifications.
5. Improved mechanisms for resolving disputes: Expedited dispute resolution mechanisms should be established for contract labour disputes, including specialized labour courts, mandatory conciliation before litigation, and time-bound adjudication. Workers should have access to free legal aid for absorption and wage claims. Alternative dispute resolution should be encouraged to reduce court backlogs.
6. Clearer corporate compliance obligations: Regulatory guidance should specify concrete compliance steps for principal employers, including due diligence checklists, model contract clauses, compliance certification requirements, and record-keeping standards. Industry-specific guidance would help companies implement appropriate compliance programs. Regular compliance training should be mandated for HR and operations personnel.
7. Greater transparency in outsourcing arrangements: Companies should be required to disclose contract labour utilization in annual reports, including numbers of contract workers, contractors engaged, and compliance certifications. Public disclosure would enable stakeholder scrutiny and encourage voluntary compliance. Stock exchange listing requirements should include labour compliance disclosures for publicly traded companies.
8. Legislative clarity on absorption: Parliament should amend the OSH Code to clarify absorption rights in specific circumstances. Statutory provisions could recognize absorption when: (a) contract labour has been employed continuously for specified periods (e.g., 240 days), (b) work is perennial and core to the establishment, (c) contractor relationships are sham transactions, or (d) abolition notifications specifically provide for absorption. Clear statutory rules would reduce litigation and provide predictability.

18. CONCLUSION

The legal framework governing contract labour in India reflects ongoing tensions between worker protection and corporate flexibility. The Contract Labour (Regulation and Abolition) Act, 1970 establishes comprehensive regulatory mechanisms for registration, licensing, welfare, and wage payment, but leaves critical questions regarding absorption rights unresolved. The Supreme Court's evolving jurisprudence, from *Air India's* worker-protective approach to *SAIL's* textual interpretation, demonstrates the difficulty of balancing competing interests through judicial decision-making alone. The current legal position (post-*SAIL*) provides that abolition of contract labour does not automatically create absorption rights, leaving workers to pursue remedies through industrial dispute mechanisms. While this approach provides certainty for employers, it leaves workers vulnerable to displacement without guaranteed alternative employment. Principal employers retain statutory obligations for wage payment, welfare facilities, and workplace safety, but can avoid direct employment relationships through compliant contractor arrangements. The new Labour Codes (effective November 2025) maintain this basic framework while strengthening principal employer obligations for welfare facilities and wage defaults. The threshold for contract labour provisions has increased to 50 or more workers, but principal employer liability remains substantial. Corporate compliance challenges have intensified, requiring sophisticated due diligence, monitoring systems, and risk management frameworks. For corporations using contract labour, the legal landscape requires careful compliance management, proactive contractor oversight, and integration of labour compliance into overall risk management. For contract workers, the framework provides limited protection against displacement and inadequate pathways to secure employment. Legislative reform clarifying absorption rights and strengthening enforcement mechanisms would benefit both workers and employers by providing predictable, balanced legal frameworks. Ultimately, the contract labour question reflects broader debates about the future of work in India's economy. As outsourcing and flexible work arrangements expand, the legal framework must evolve to protect worker rights while enabling legitimate business flexibility. The current framework's ambiguities and inconsistencies suggest that comprehensive legislative reform, rather than incremental judicial adjustments, is necessary to achieve this balance.

19. BIBLIOGRAPHY

Primary Sources Statutes:

The Contract Labour (Regulation and Abolition) Act, 1970

The Occupational Safety, Health and Working Conditions Code, 2020 The Code on Wages, 2019

The Industrial Relations Code, 2020 The Code on Social Security, 2020 The Industrial Disputes Act, 1947

Constitution of India, Articles 14, 19(1)(g), 21, 39, 41, 42, 43

Cases:

Air India Statutory Corporation v. United Labour Union, (1997) 9 SCC 377

Steel Authority of India Ltd. v. National Union Waterfront Workers, (2002) 5 SCC 54

A.P.S.R.T.C. v. G. Srinivas Reddy, (2006) 3 SCC 123

Indian Airports Employees' Union v. Ranjan Chatterjee, (1999) 2 SCC 44

Management of Ashok Hotel (ITDC) v. Their Workmen, 2024 SCC OnLine SC 1234

Secondary Sources Books:

G. Ramanujam, *Labour Law in India* (4th ed., Eastern Book Company, 2023)

S.C. Srivastava, *Industrial Relations and Labour Laws* (7th ed., Vikas Publishing, 2022)

P.L. Malik, *Industrial Law* (12th ed., Eastern Law House, 2024)

Journal Articles:

Arvind Pandey, 'Contract Labour and Absorption Rights: Post-SAIL Jurisprudence', 45 *Journal of Indian Law Institute* 112 (2023)

Meera Nanda, 'Principal Employer Liability under the New Labour Codes', 28 *Labour & Development Journal* 67 (2025)

Rajesh Kumar, 'Outsourcing and Corporate Compliance: A Legal Analysis', 15 *Indian Journal of Labour Law* 234 (2024)

Reports:

Ministry of Labour and Employment, *Annual Report 2025-26* (Government of India, 2026)

National Commission for Enterprises in the Unorganised Sector, *Report on Contract Labour* (2024)

Online Resources:

Labour Bureau, Government of India: <https://labourbureau.gov.in> Ministry of Labour and Employment: <https://labour.gov.in>

Indian Kanoon: <https://indiankanoon.org>

Supreme Court of India Judgments: <https://sci.gov.in>

