

LABOUR & INDUSTRIAL LAW

UNIT – III

Protection of Child Labour & Contract Labour

Child Labour (Prohibition & Regulation) Act, 1986
Contract Labour (Regulation & Abolition) Act, 1970

Learning Objectives

- 01 Understand the constitutional and international framework against child labour
- 02 Explain the Child Labour (Prohibition and Regulation) Act, 1986 and 2016 Amendment
- 03 Analyse competing views on abolition versus regulation of child labour
- 04 Describe the Contract Labour (Regulation and Abolition) Act, 1970
- 05 Evaluate judicial approach to sham contracts and absorption of contract labour

Constitutional Framework for Child Protection

Article 24: No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Article 21A: Right to free and compulsory education for children between 6 and 14 years.

Article 39(e) & (f): State shall direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused... and that children are given opportunities and facilities to develop in a healthy manner.

Article 45: State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

These provisions form the constitutional backbone of the Child Labour Act.

Child Labour Act, 1986 – Key Provisions

The Child Labour (Prohibition and Regulation) Act, 1986 (as amended in 2016):

- Prohibits employment of children (below 14 years) in all occupations and processes (with limited exceptions)
- Prohibits employment of adolescents (14–18 years) in hazardous occupations and processes
- Regulates the conditions of work where employment is permitted
- Provides for penalties, cognizable offences, and rescue & rehabilitation
- Creates District and State level monitoring mechanisms

The 2016 Amendment was a major shift from regulation to near-complete prohibition for children under 14.

2016 Amendment – Changes & Criticisms

Major changes introduced by the 2016 Amendment:

- Complete prohibition on employment of children below 14 in all occupations and processes
- Limited exceptions: work in family enterprises and entertainment industry (after school hours and during vacations)
- Adolescents (14–18) barred only from hazardous occupations/processes
- Enhanced penalties

Criticisms:

- Exceptions for family enterprises can be misused to continue exploitation
- Definitional problems in distinguishing family work from commercial exploitation
- Enforcement remains weak
- Focus on prohibition without adequate rehabilitation and education support

Contract Labour Act, 1970 – Overview

Full name: Contract Labour (Regulation and Abolition) Act, 1970

Object: To regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

Important point: The Act does not abolish contract labour automatically. It regulates it and empowers the appropriate Government 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.

Applicability: Every establishment in which 20 or more workmen are employed as contract labour, and every contractor who employs 20 or more workmen.

Contract Labour Act – Important Sections

Section 7

Registration of principal employers

Section 12

Licensing of contractors

Section 16–19

Welfare facilities – canteens, rest rooms, drinking water, first aid

Section 21

Responsibility for payment of wages

Section 10

Prohibition of employment of contract labour by appropriate Government

Section 28–35

Inspectors, penalties and offences

Sham Contract Doctrine

Courts examine whether a contract labour arrangement is genuine or a sham/camouflage intended to avoid employer obligations.

If the contract is found to be a sham, the so-called contract workers may be treated as direct employees of the principal employer.

Relevant factors:

- Who exercises control and supervision?
- Who pays the wages?
- Who has the power to appoint and dismiss?
- Is the work of perennial nature and integral to the establishment?
- Is the contractor an independent entity or a mere name-lender?

The Supreme Court has repeatedly cautioned against automatic absorption while protecting workers against sham arrangements.

Landmark Case: SAIL (2001)

Steel Authority of India Ltd. v. National Union Waterfront Workers (2001) 7 SCC 1

Constitution Bench decision.

Holding:

- Automatic absorption of contract labour does not follow from the abolition of contract labour under Section 10
- The principal employer is not bound to absorb the contract workers merely because contract labour is prohibited
- However, if the contract is found to be a sham or camouflage, the workers can be treated as direct employees
- Guidelines were laid down for determining the nature of the arrangement

This is the leading authority on the consequences of abolition of contract labour.

Landmark Cases – Child Labour

M.C. Mehta v. State of Tamil Nadu (1996)

Directions on child labour in hazardous industries; education and rehabilitation of children; creation of a fund.

Bachpan Bachao Andolan series

Supreme Court has continuously monitored child labour, trafficking and rescue operations through ongoing PILs.

Labourers Working on Salal Hydro Project (1984)

Directions regarding employment of children and payment of minimum wages.

Key Takeaways

- Article 24 and the Child Labour Act form the core of the prohibition on child employment.
- The 2016 Amendment moved towards complete prohibition for children under 14 with limited exceptions.
- Contract labour is regulated, not automatically abolished; Government may prohibit it under Section 10.
- Sham contracts can be pierced; genuine contract labour does not create a right to automatic absorption (SAIL, 2001).
- Enforcement and rehabilitation remain the critical challenges in both child labour and contract labour.
- Judicial monitoring through PIL has been extensive, especially in child labour matters.

Unit-III – Quick Revision

Child Labour – Constitution

Art. 24, 21A, 39(e)(f), 45

Child Labour Act

1986 Act + 2016 Amendment – prohibition focus

Contract Labour Act

1970 – regulation + power to abolish (S. 10)

Sham Contract

Courts can pierce and treat workers as direct employees

Leading Case

SAIL v. National Union Waterfront Workers (2001)

Child Labour Case

M.C. Mehta (1996) + Bachpan Bachao Andolan

End of Unit – III

Child Labour • Contract Labour

Next → Unit-IV : Social Security