CONTRACT LABOUR: PROGRESSIVE STEP OR REGULATORY RETREAT? FROM PROMISE TO PRACTICE: THE LAW, THE COURTS AND THE GROUND REALITY OF CONTRACT LABOUR IN INDIA

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ABSTRACT

Contract labour has for more than fifty years been one of the most disputed areas of Indian labour law, with the employer's requirement for flexibility being opposed to the worker's right to secure tenure. This article examines that ongoing dispute starting from the Contract Labour (Regulation and Abolition) Act of 1970, via the Supreme Court's changing interpretations of the principle of absorption, and ending with the Occupational Safety, Health and Working Conditions Code of 2020, which came into effect on 21 November 2025. Based on legal principles, recent judicial decisions and interviews conducted with contractors and contract labourers in Maharashtra and Gujarat, the article considers whether the codification thus achieved represents a step forward or marks a retreat in regulation. The view put forward is that while the Code has a progressive appearance it may have a regressive effect, and that the fundamental problem in this area namely, the gap between what the law promises and what actually happens in practice still remains unaddressed.

Keywords: Contract Labour; Occupational Safety, Health and Working Conditions Code, 2020; Contract Labour (Regulation and Abolition) Act, 1970; Labour Law; Judicial Absorption; Employment Security; Labour Regulation; Codification; Contract Workers; Regulatory Reform; Indian Labour Law; Principal Employer; Labour Rights; Regulatory Retreat; Labour Welfare.

I. Introduction

If you ask an ordinary person what image the word 'labour' evokes, the answer usually comes swiftly to mind that of men and women at a construction site or by the roadside, working in the heat under conditions that few would willingly accept. However, a smaller number are aware that this workforce is protected by a comprehensive set of statutes. Even fewer go on to ask whether or not that law is actually enforced, or whether it merely exists on paper while a completely different informal system takes control in practice. The discrepancy between the promises made by law and what actually happens in real life is the true focus of this article.

Contract labour holds an ambivalent position within the Indian industrial economy. On the one hand, employers gain from using an intermediary contractor the advantage of specialisation and a more predictable cost compared with direct employment; on the other hand, for the worker who is engaged in this way, the arrangement has in the past meant lower wages, exclusion from statutory welfare benefits, a lack of collective bargaining power and a constant vulnerability to being dismissed without notice or compensation. The conflict between legitimate managerial flexibility and the abuse of that flexibility as a means of avoiding permanent employment has been a feature of Indian contract labour law since before Independence and remains so today.

The article considers a particular and timely aspect of that issue. The Contract Labour (Regulation and Abolition) Act of 1970 ("CLRA"), which had governed the area for over five decades, has now been largely incorporated into the Occupational Safety, Health and Working Conditions Code of 2020 ("OSH Code"), one of four labour codes that the Union Government declared to come into effect from 21 November 2025. The question being looked at here is a straightforward one: does this codification mark a progressive move by granting statutory authority to the protections which the CLRA had left to the discretion of administrative bodies, or is it instead a step backward in regulation carried out using the technical terminology of thresholds and definitions? Although the four Codes are officially in effect as of August 2026, the delegated Rules which will provide them with practical content are still being finalised in the various States. Consequently, any evaluation given at this stage must be regarded as provisional since it is based on a careful examination of a currently ongoing transition rather than being a retrospective judgment on a fully established system.

The analysis is divided into twelve sections. Section Sections II deal with deal with the hdevelopment of the regulation of contract labour and the legal debates concerning automatic absorption, which ended in the case of which ended in the case of *Steel Authority of of India Ltd v NationalSection IV looks at the origin*. Section IV looks at the origin andwhile Section V examines the specific changes introduced by examines the sSectionfic changes inresent the most compelling argument for viewing the Code as progressive and the most compelling argument for seeing it as regressive. Section VIII gives a brief account of how the welfare guarantees introduced during the CLRA period VIII gives a bfunctionccount of how the welfare guarantees introduced durinSection IX looks at the practical problems involved in the current transition, and Section X provides a comparative and international view of the reform. Finally, Sections XI and XII bring the various pointction X provides a comparative and international view of the reform. Finally, Sections XI and XII bring the various points together.

II. The Historical Development of the Regulation of Contract Labour

A. A System Built on Exploitation

The practice of employing labour via intermediary contractors in India went back long before any statutory regulations were introduced. It was a constant feature of the docks, mines, plantations and factories from the colonial era and stayed largely unregulated for many decades afterwards. Neither the contractor nor the main employer had much reason to concern themselves with the workers who were engaged in this manner since they were cheap simply because they did not have to comply with labour laws, and once the work was completed they could be fired without having to meet any of the obligations that would apply to a permanent workforce. In the case of an accident at the site resulting in injury or death, contractors and the principal employers regularly denied any liability on the grounds that no legislation made them directly responsible to the worker; a labourer who had no written contract and no fixed employer to take legal action against had very little real means of redress even though the law, in theory, provided one.

Ten years before Parliament took action, the Supreme Court had already started to examine such arrangements. In the case of *The Standard Vacuum Refining Co of India Ltd v Its Workmen*, the Court agreed with an Industrial Tribunal's decision to get rid of the contract system relating to cleaning and maintenance work at a refinery. The reason given was that the work was incidental to and necessary for the manufacturing process, was of a continuous character, and was normally carried out by the employer's regular workers. This early test based on function proved to be influential. It was largely put into codified form ten years later and the logic behind it still influences the current core activity test which is quite different.

B. The Contract Labour (Regulation and Abolition) Act 1970

In response, Parliament passed the Contract Labour (Regulation and Abolition) Act 1970[1], which came into effect on 10 February 1971. The policy, as set out in the Act, is to prohibit the use of contract labour whenever this can be done, and in cases where such a prohibition is not feasible, to regulate the system and include the workers within the broader framework of Indian labour law. The title makes it clear that a compromise had been made: instead of either completely banning contract labour or leaving it entirely unregulated, Parliament decided to regulate the conditions in which the system remained and to provide for its abolition in specific circumstances.

In terms of structure, the CLRA required all principal employers to be registered and all contractors to be licensed. It gave the "appropriate Government" the power to ban contract labour in a particular process by means of a notification, taking into account whether the work in question was incidental to or necessary for the industry, whether it was a perennial activity, whether it was usually carried out by regular workers, and whether it was sufficient to allow a large number of full-time workers to be employed. These criteria are almost exactly the same as the Standard Vacuum test.[2] The Act covered establishments and contractors who employed twenty or more contract workers on any day during the previous twelve months[3], excluded genuinely seasonal or intermittent work, and applied to Government and local authority establishments in the same way as it did to private ones.

As regards welfare provisions, CLRA required the contractor to provide canteens and rest rooms, together with an adequate supply of drinking water, latrines and urinals, washing facilities and first aid; it also brought contract workers within the scope of the Employees' Provident Funds Act and, in the case of an establishment that was covered by it, within the scope of the Employees' State Insurance Act; and it gave them, at least in name, the right to be protected by the Factories Act 1948, the Payment of Wages Act 1936, the Minimum Wages Act 1948, the Workmen's Compensation Act 1923 and the Industrial Disputes Act 1947; to

[1] Contract Labour (Regulation and Abolition) Act 1970 (Act 37 of 1970).
[2] *The Standard-Vacuum Refining Co of India Ltd v Its Workmen* AIR 1960 SC 948, (1960) 3 SCR 466.
[3] Contract Labour (Regulation and Abolition) Act 1970, s 1(4).

equal remuneration under the Equal Remuneration Act; to maternity leave under the Maternity Benefit Act; and to the same pay as workers who were directly employed and who carried out the same or similar work.

It is important to highlight one aspect, since it anticipates a criticism that is later made in this article. Under the CLRA, the ban on contract labour was never automatically effective; contract labour remained legal until the Government had officially notified its abolition, and thus the effectiveness of the provision banning contract labour always hinged on the Government's own discretion rather than on the statute's own authority. This limitation is exactly what the OSH Code as shown in Part V intended to remedy, although only with partial success.

C. Constitutional Foundations

The validity of CLRA was examined from an early stage. In *Gammon India Ltd v Union of India*[4], the Supreme Court dismissed the challenge brought under Article 19(1)(g), stating that the restrictions introduced by CLRA were reasonable and served the interests of the general public as well as the welfare of contract labour, and thus confirmed the Act as a valid exercise of Parliament's power to make laws for social welfare. Some of the constitutional criticisms now being levelled at the new Codes still refer to that interpretation. The judgment serves as a helpful reminder that in India the constitutionality of labour legislation has never hinged on whether a particular clause benefits workers or employers, but has always depended on whether the restriction in question is reasonable in the wider public interest. That standard was wide enough to justify the abolition of CLRA in 1974 and is, it is likely, wide enough as well to support the OSH Code's narrower provision banning certain activities today.

III. The Debate Over Judicial Interpretation

Even if the text of CLRA had been settled by 1974, its practical meaning still remained in doubt. The issue most widely debated was what would happen to contract workers when the relevant Government issued a notification banning their involvement in a particular process. Does the termination of the contract automatically result in a direct employment relationship being established with the principal employer? For thirty years the Supreme Court's response varied, and this sequence of rulings is essential to understanding the doctrinal legacy upon

[4] *Gammon India Ltd v Union of India* (1974) 1 SCC 596, 1974 SCC (L&S) 252.

which the OSH Code now rests.

A. The early restrictive view

In the case of *Dena Nath v National Fertilizers Ltd*[5], the Court stated that the principal employer's failure to register or the contractor's failure to obtain a licence did not in itself result in contract workers becoming direct employees; the only consequence of non-compliance was being prosecuted and fined, not automatic absorption. Three years later a two-judge Bench in the case of *Gujarat Electricity Board, Thermal Power Station, Ukai v Hind Mazdoor Sabha*[6] reiterated that same restrictive approach, at the same time expressing its clear concern that even public sector enterprises were using contract labour for work which was continuous in nature and could legally have been carried out by direct employees. This represents an early and notable judicial acknowledgment of the very concern which is at the heart of the present debate on core activities, as examined in Parts V and VII, namely that even formally lawful contracting arrangements can be employed to evade the protective purpose of the law.

B. The highest point reached by worker protection

In the case of *Air India Statutory Corporation v United Labour Union*[7]. A Bench consisting of three judges described the CLRA as beneficial welfare legislation which should be given a liberal interpretation, reversed the view taken in Dena Nath on that issue, and ruled that a valid notification cancelling the arrangement automatically led to the absorption of the previous contract workers into the main employer's establishment, allowing them to claim it directly by means of a writ. This conclusion was based on the idea that the right to a livelihood is an essential part of the right to life as provided under Article 21. For a short time this became the highest point in the development of the law relating to the protection of contract workers in India, with abolition and absorption being considered two aspects of the same issue.

C. The Agreement reached by the Constitution Bench

The case was settled by a Constitution Bench consisting of five judges in the decision *Steel Authority of India Ltd v National Union of Waterfront Workers* ("*SAIL*")[8]. The Court

[5] *Dena Nath v National Fertilizers Ltd* (1992) 1 SCC 695.
[6] *Gujarat Electricity Board, Thermal Power Station, Ukai v Hind Mazdoor Sabha* (1995) 5 SCC 27, AIR 1995 SC 1893.
[7] *Air India Statutory Corporation v United Labour Union* (1997) 9 SCC 377, AIR 1997 SC 645.
[8] *Steel Authority of India Ltd v National Union Waterfront Workers* (2001) 7 SCC 1, AIR 2001 SC 3527.

decided prospectively to overrule *Air India Statutory Corporation and stated* that neither Section 10 nor any other provision of the CLRA provides for the automatic absorption of workers when a prohibition notice is issued. The issuance of such a notice only prevents future contract labour from being engaged in the relevant process; it has no effect on the employment status of workers who are already engaged. Importantly, SAIL retained a significant safety valve: if a worker claims that the contract is a sham or is being used as a disguise for a real employer-employee relationship, that issue remains for determination by industrial tribunals. Although the contract worker had no automatic remedy, he was not entirely without a remedy.

The implications of this for the argument set out in the article are something that deserves consideration. Twenty years before the OSH Code was introduced, the Constitution Bench had already shifted the interpretation of the CLRA away from the more worker-friendly reading which the Court had itself adopted just four years earlier, and it had done so on the grounds of doctrinal and institutional consistency. The tension discussed here as an example of regulatory retreat is, according to this evidence, not a new phenomenon brought about by the 2020 codification; it is rather a recurring back-and-forth in Indian labour case law, the OSH Code being the most extensive recent instance of this oscillation.

D. The Transition into the Codified Era

The continued validity of the *SAIL* framework as operative law is shown by the Supreme Court's most recent decision on the matter. The case of *M/s Premium Transmission Pvt Ltd v State of Maharashtra*[9], which was decided on 27 January 2026, involved a dispute regarding the regularisation of contract labourers in Maharashtra, in particular whether a claim asserting that the contractual arrangement was a sham could be dealt with summarily under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, without first proving an employer-employee relationship. The Court ruled that a formal demand notice is not a necessary preliminary step for referring an anticipated industrial dispute, but that an allegation of sham or camouflage contracting must be decided by the appropriate industrial tribunal rather than being settled summarily, expressly referring to SAIL as authoritative. Two conclusions can be drawn from this. Fifty years of jurisprudence under the CLRA does not vanish simply because the OSH Code has been notified, and the route

[9] *M/s Premium Transmission Pvt Ltd v State of Maharashtra* 2026 INSC 87 (Mithal and Bhatti JJ, decided 27 January 2026).

concerning sham contracts as identified in SAIL is still a viable and actively contested remedy in 2026.

IV. The Transition from Fragmentation to Codification: The Origin of the Labour Codes

The origins of the present Codes date back almost twenty years before they were enacted. The Second National Commission on Labour, which was set up in 1999 with Ravindra Varma as its chairman, presented its report in June 2002. The Commission found that India's approximately forty central labour laws, along with about a hundred enactments at the state level, had been built up haphazardly and included inconsistent definitions of fundamental terms such as "worker", "wages" and "establishment". It suggested that these should be streamlined into a small number of functional codes dealing with industrial relations, wages, social security and safety and working conditions.

It was seventeen years before the Ministry of Labour and Employment turned that recommendation into law. The Code on Wages was given assent in August 2019, while the Industrial Relations Code, the Code on Social Security and the OSH Code were passed in September 2020. The three Codes together bring together twenty-nine central acts and, according to one commonly quoted estimate, reduce the roughly 1,232 statutory provisions to about 480. Since "Labour" is included in the Concurrent List, both central and state governments had to issue regulations before the Codes could come into practical effect, and enforcement was again and again postponed well past the originally planned date of 1 April 2021. The Codes stayed in a legal dormant state for most of five years, during which time employers, unions and legal professionals all prepared contracts and gave advice to their clients about a law which was on the statute book but had not yet come into force. This kind of intermediate status is not unusual in India's legislative practice, although it is seldom maintained for such a long period.

The situation came to an end on 21 November 2025 when the Union Government declared all four Codes to be effective[10]. Five days later, a coordinated nationwide trade union protest took place, a point which is examined further in Part VII. The Draft Central Rules were issued on 30 December 2025 and the Central Rules were officially notified on 8 May 2026. As

[10] Press Information Bureau, Government of India, 'Government Makes the Four Labour Codes Effective to Simplify and Streamline Labour Laws' (21 November 2025); KPMG, 'Government of India Announces Implementation of Four Labour Codes', GMS Flash Alert 2025-267 <https://kpmg.com/xx/en/our-insights/gms-flash-alert/flash-alert-2025-267.html> accessed 9 August 2026.

stated in an official reply laid before the Lok Sabha on 20 July 2026, most of the States have now finalised or pre-published their own Rules, although a few are still working on them[11]. The OSH Code, which includes the CLRA and twelve other acts such as the Factories Act 1948, is therefore the current statute governing contract labour in India, even though its complete compliance framework is still being put together state by state.

V. The provisions relating to contract workers under the OSH Code 2020: What Changes Have There Been?

A. The Applicability Threshold

The CLRA applies to enterprises and contractors who have twenty or more contract workers. However, Chapter XI, Part I of the OSH Code raises the threshold to fifty or more. The Ministry has made it clear that general duties relating to welfare and safety such as maintaining cleanliness, providing drinking water and having first aid remain in force for any establishment employing ten or more workers, no matter what the threshold is, and it has described the higher figure as an administrative convenience for small contractors rather than as a withdrawal of the fundamental protections[12]. The extent to which this interpretation holds up will be looked at in Parts VI and VII. It is certain, though, that contractors and establishments involving between twenty and forty-nine contract workers representing a major part of India's services sector and the MSME sector are now completely excluded from the licensing scheme which applies specifically to contract labour, even though in many cases such arrangements would have been subject to registration and licensing requirements under the CLRA.

B. From the Abolition Triggered by a Notification to a Legal Barrier

The major change concerns the way in which prohibition functions. Section 57 of the OSH Code begins by plainly stating that the use of contract labour in "core activities" is forbidden[13]. This provision is self-executing and does not require any notification from the

[11] Lok Sabha Unstarred Question No 9 (answered 20 July 2026), reproduced in StaffNews, 'Four Labour Codes Implemented from 21 November 2025: Centre Notifies Rules, States Finalising Implementation' (2026) <https://www.staffnews.in/2026/07/four-labour-codes-implemented-from-21-november-2025.html> accessed 9 August 2026.

[12] Ministry of Labour and Employment, Government of India, 'FAQs on Occupational Safety, Health and Working Conditions (OSH) Code, 2020' <https://www.labour.gov.in/static/uploads/2026/01/fb8c6466d0d6a7ed581bcb2bee34694c.pdf> accessed 9 August 2026.

[13] Occupational Safety, Health and Working Conditions Code 2020, s 57.

government. Nevertheless, the effect of the provision entirely depends on the definition of "core activity". The Code defines this term broadly as any activity for which the establishment exists, but the same definition also excludes eleven categories of support function[14]. These excluded categories include sanitation, watch and ward and security, canteen operation, transportation, and courier services, even if these functions are very central to a particular establishment. The exception provided in Section 57 goes even further by allowing the use of contract labour in a real core activity where the work is "ordinarily carried out by a contractor", where it is not necessary to have full-time workers for most of the day, or where the work arises as a result of a sudden and temporary increase in demand. Critics argue that the exception is almost circular since it permits an establishment's own practice of contracting to justify the exception which is intended to limit that practice.

To make the difference clearer, consider the case of a medium-sized garment factory. In this factory the stitching process is very likely to be a core activity since it is exactly the kind of activity for which the factory exists. On the other hand, even though the factory management may regard the security guards at the gate and those who run the canteen as essential, these people are excluded from the definition of core activity. Furthermore, a sudden increase in orders before the festival season might cause even the stitching work to fall within the exception provided for a temporary rise in demand. Although the relevant government might set up a designated authority to decide, on request, whether or not a given activity is core or non-core, this decision is currently made on a case-by-case basis and is not based on any published list that is specific to the sector.

C. The aspect of licensing and the option of fixed-term contracts

As far as administration is concerned, the Code establishes a single licence and a one electronic registration valid for five years, a duration much longer than the usually annual renewals under the CLRA, and it strengthens the principal employer's residual wage liability by requiring wages to be paid via bank transfer. Together with this, the Industrial Relations Code includes 'fixed-term employment', which refers to a direct, written and time-limited contract with no intermediary contractor[15]. This type of worker is entitled to the same wages

[14] Occupational Safety, Health and Working Conditions Code 2020, s 2(1)(p); AICCTU, 'Contract Labour – the Principal Sham', Workers' Resistance (2021) <https://www.aicctu.org/workers-resistance/v1/workers-resistance-august-2021/contract-labour-%E2%80%93-principal-sham> accessed 9 August 2026.
[15] Industrial Relations Code 2020 (Act 35 of 2020), s 2(o); LiveLaw, 'The Industrial Relations Code, 2020: Implications For Workers' Rights' (24 October 2020) <https://www.livelaw.in/columns/the-industrial-relations-

and benefits as permanent employees and is also entitled to pro-rata gratuity after one year. The automatic ending of the term, however, is not regarded as 'retrenchment' and therefore entitles the worker to no retrenchment compensation, and the Code places no limit on the number of times such a contract may be renewed.

D. The general shape of the change

Next to CLRA, the new chapter displays a pattern which is easier to see as a whole than it is when examined clause by clause. The applicability threshold has changed from applying to twenty or more contract workmen to applying to fifty or more contract labourers. The prohibition has shifted from being a discretionary notification under section 10 of CLRA to becoming a self-executing bar under section 57 of the Code, although this bar is subject to statutory exclusions as well as the proviso mentioned above. The distinction between core and non-core work, which under CLRA had to be deduced from the factors listed in section 10(2), is now stated in terms in section 2(1)(p), with eleven statutory exclusions. Licensing has moved from the usual short cycle of annual renewal to a common licence and a single registration valid for five years.

Two other points of comparison are less apparent but no less important. The first relates to absorption. Since SAIL interpreted CLRA, there was no automatic absorption upon abolition, so the only available remedy for workers was the sham contract route. The OSH Code makes no mention of absorption at all, which means that the *SAIL* position must be assumed to remain in force, and *Premium Transmission* shows that it does. The significance of this silence lies in the fact that the one issue most frequently litigated during the CLRA period now finds itself in the codified system without a resolution from the text and is still dependent, as previously, on industrial adjudication. The second point concerns the underlying philosophy. CLRA's stated method had been to regulate the system and to abolish it selectively, one process at a time. By contrast, the Code's approach is one of consolidation, with prohibition limited to a narrower range of activities described as "core". It is this change in philosophy which gives the competing interpretations of the reform, to be examined next, the weight that they have.

VI. Arguments in favour of a gradual step

Any fair evaluation should recognize the reform's merits, and the argument for viewing

code-2020-implications-for-workers-rights-164921> accessed 9 August 2026.

it as progressive is more compelling than its critics generally admit.

Start with consolidation. The twenty-nine overlapping statutes, each of which had its own definitions of "worker", "wages" and "establishment", are combined into a single framework featuring uniform definitions, thereby tackling the inconsistency that the Second National Commission pointed out as the fundamental cause of the compliance uncertainty described in Part III. According to the Government itself, the basic welfare and safety obligations now apply to any establishment having ten or more workers, no matter what the fifty-worker threshold for contract labour is, so the change acts as an administrative convenience for small contractors instead of representing a withdrawal of basic rights[16]. The Code on Social Security is the first time that formal social security coverage has been extended to gig and platform workers[17], a category which has in the past been the most vulnerable and completely unregulated kind of contract-adjacent labour.

The most important point from a doctrinal standpoint is that a self-executing statutory default is more lasting than a system which relies completely on the administrative decision to take action. Under the CLRA, a government that was unwilling to do so could indefinitely fail to give notice of abolition, a weakness which the Gujarat Electricity Board Bench itself expressed regret about. At least Section 57 sets out the default rule in the statute and places the onus on the employer to prove that an exception applies.

Honestly, fixed-term employment is just as transparent as the short-term arrangements that many employers have adopted deliberately in order to avoid the problems associated with permanent positions. For the first time, workers on such contracts have a written agreement, are paid the same as permanent staff, receive their statutory benefits on a pro-rata basis, and are also given mandatory appointment letters together with a statutory minimum wage that applies to those workers who had previously had no written proof of their employment at all. The move towards electronic registration and the digital payment of wages is not simply a measure designed to make it easier for employers to comply with the rules; it does create a lasting administrative record showing who was employed, where, and for how long exactly

[16] Press Information Bureau, Government of India, 'Occupational Safety, Health and Working Conditions (OSH) Code, 2020' (Factsheet) <https://www.pib.gov.in/FactsheetDetails.aspx?Id=150475®=48&lang=2> accessed 9 August 2026.

[17] Corrida Legal, 'Impact of the New Labour Codes on Employers and Employees: What You Need to Know' <https://corridalegal.com/impact-of-the-new-labour-codes-on-employers-and-employees-what-you-need-to-know/> accessed 9 August 2026.

the kind of record which, as was seen in the interviews described in Part VIII, made it so difficult for a worker to prove even the fact of having been employed once the contractor had left.

VII. Arguments in favour of stepping back from regulation

On the contrary, a considerable amount of knowledgeable opinion this including trade unions from all political sides, policy analysts and former members of the higher judiciary sees the reform in question as a retreat that has been secured by means which are technical and easily overlooked. The argument is based on a number of related points.

It is very unlikely that the rise in the threshold will have a neutral effect. It is well known that Indian enterprises tend to concentrate just below the regulatory size thresholds, a fact that has been noted in connection with the similar increase, from 100 to 300 workers, in the threshold for prior government permission before carrying out lay-offs, retrenchments or closures under the Industrial Relations Code[18]. Increasing the threshold for contract labour from twenty to fifty workers will therefore very likely exclude a large number of actual employment arrangements from licensing inspections, and it is exactly the kind of situation that raised concerns with the Court in the *Gujarat Electricity Board* case three decades ago.

The eleven statutory exclusions provided for in Section 57 are not merely minor exceptions. In establishments where services form a major part of the operation, these exclusions can represent a large proportion of the workforce. The provision which allows contract labour to be used wherever the work is "ordinarily done through a contractor" increases the difficulty for the reason already stated: it enables an establishment's existing practice to justify the very exception which is intended to limit it. Indeed, the notified Rules, even by mid-2026, do not specify, on a sector by sector basis, what constitutes core or non-core work, so that the classification is mainly left to the employer's own judgment at the outset[19]. It is difficult to enforce consistently a textual prohibition that in reality relies on the party it is meant to constrain to classify its own activities.

If you take all the measures together the threshold of fifty workers, the increase in the

[18] The India Forum, 'Impact of New Labour Codes on Workers' (20 February 2026) <https://www.theindiaforum.in/economy/impact-new-labour-codes-workers> accessed 9 August 2026.
[19] ForumIAS, 'Rules for the Four Labour Codes – Vulnerable Workers' (12 June 2026) <https://forumias.com/blog/rules-for-the-four-labour-codes-vulnerable-workers/> accessed 9 August 2026.

retrenchment threshold, and the new requirement that a union must have 51 per cent membership in order to be recognised as the sole negotiating union this shows a clear tendency in the legislation to reduce the number of people who are subject to the more rigorous requirements of protective compliance. The situation with fixed-term employment is similar. Since the end of a fixed term does not count as retrenchment and the Code puts no limit on the number of renewals, an employer in principle could keep an employee on successive fixed-term contracts indefinitely without ever having to meet the obligations that apply in the case of permanent employment. This is exactly the kind of casualisation that the Second National Commission itself identified in 2002, when it suggested a two-year limit which is not included in the final version of the legislation.

The extent of the debate is important. Ten of the main trade unions have denounced the notice and have carried out a coordinated nationwide protest[20], and retired judges from the Supreme Court and from various High Courts have claimed that the weakening of independent labour inspection in favour of self-certification and the broad delegation of specific details to the executive Rules do raise valid questions under Articles 14, 19 and 21 of the Constitution[21]. Although one's view of the merits may vary, the fact that this debate continues is proof that the reform has not been felt by a significant section of the workforce it affects as being unambiguously protective.

There is one more point which is argued less frequently and it can be drawn from the evidence set out in Part VIII. Since the Government says that a higher threshold and a more narrow definition of core activity are simply administrative simplifications which have no effect on the substantive protection, it follows that the rights most at risk from this argument being applied are precisely those which the interviews in this article found to be already weak under the previous law: maternity leave, childcare, and the proactive disclosure of a worker's rights. A reform which raises the thresholds without first ensuring that the protections that already existed are properly enforced is at the very least tackling the wrong part of the problem.

[20] Public Services International, 'Unions Erupt in Protests in India Against Anti-Worker Labour Codes' (2 December 2025) <https://publicservices.international/resources/news/unions-erupt-in-protests-in-india-against-anti-worker-labour-codes-?id=16291&lang=en> accessed 9 August 2026.

[21] The Leaflet, 'Four Labour Codes, One Bad Idea: Why April 1, 2026 is too soon to implement the new Codes' (31 March 2026) <https://theleaflet.in/labour-law/four-labour-codes-one-bad-idea-why-april-1-2026-is-too-soon-to-implement-the-new-codes> accessed 9 August 2026.

VIII. The Situation on the Ground: A View from the Field in Maharashtra and Gujarat

The value of statutory guarantees depends entirely on how well they are observed, and the gap between the two has for a long time been the main weakness of Indian contract labour law this is the point on which the article began. In order to examine how the welfare provisions of the CLRA actually work in practice, I carried out brief, structured interviews with contractors and the contract labourers working on small construction projects in Maharashtra and Gujarat, posing to each group the same general questions regarding wages, working hours, amenities, and awareness of their statutory rights so that their answers could be compared with one another. Although the sample is not statistically representative but rather illustrative, the pattern it shows is worth describing since it is in agreement with the wider enforcement issues discussed in Part IX.

On the part of the contractors, the wage periods and working hours were usually determined by the Labour Commissioner of the relevant jurisdiction. In Maharashtra, companies employing fewer than 1,000 workers were said to have a seven-day wage cycle, with an eight-hour working day divided between a morning and an afternoon shift, and statutory holidays were kept. However, the welfare facilities intended by the CLRA were available only in a diminished form: the dining and resting areas were temporary and unfinished buildings rather than the facilities anticipated by the Act, and there was no separate crèche provided for the children of female workers, who were instead kept in an informal enclosure at the worksite. Women were reportedly not required to work after 7 p.m. and were paid the same rates as men. Nevertheless, the provision under the Maternity Benefit Act was largely not taken advantage of, since women continued to work during their pregnancies because neither they nor the contractor could afford the cost of paid leave without a corresponding loss of output. This mutual economic pressure nullifies a statutory right even though the right is formally in place.

On the side of the labourers the situation was just as mixed. Wages were usually paid on time, the delays seldom going beyond two or three days, and the workers interviewed showed a real knowledge of the Minimum Wages Act and the Equal Remuneration Act. With regard to entitlements which depended on the employer voluntarily providing information, the situation was worse. Although service certificates were due upon the ending of employment, they were only issued when a worker specifically requested them, indicating that workers were not normally informed that this was an automatic right and not merely a favour. Overtime registers were kept and extra hours were paid for, though not always at the required double rate.

This does not constitute a systematic criticism. The provisions relating to timely payment of wages and equal basic pay entitlements which workers could see and enforce on a day-to-day basis remained fairly stable. It was the entitlements which required the contractor to provide information or to incur a cost without an immediate counterbalancing output that consistently broke down: these included maternity leave, dedicated childcare, and unrequested documentation. The level of awareness was also uneven in the same way, which is significant. Although workers could be fairly certain about the Minimum Wages Act and the Equal Remuneration Act, since both were clearly stated in each wage statement, they could not always say whether they were entitled to a service certificate or whether it was given merely as a courtesy. The pattern of compliance when it is self-enforcing and the gradual erosion in cases that depend on disclosure or on the absorption of cost is exactly the dynamic that Part IX outlines at the policy level. It also serves as a useful warning against the assumption that any well-drafted statutory reform by itself closes the gap between what is written and what actually happens. A threshold, a definition or a proviso can be reworded in Delhi. But the contractor's habit of not mentioning an entitlement that he would rather not have to pay can only be changed, if at all, one worksite at a time.

It is important to be fair to the contractors when looking at these findings. The interviews contained no indication of deliberate cruelty; instead, what became clear was a number of normal economic incentives steadily working against a worker's less obvious entitlements. A contractor working on narrow margins under a fixed-price contract has every reason to pay wages on time because if the workers are not paid they simply stop turning up, but very little inherent reason to fund a crèche, keep a formal grievance procedure, or remind a worker who is leaving of a right which he has not taken the time to ask about. The OSH Code's move towards digital registration and a longer licence cycle may eventually alter that calculation by making it easier to detect non-compliance afterwards. Whether or not it does is precisely the kind of question that can only be answered by observing enforcement rather than by examining the statute.

IX. The challenges currently facing the transition, 2025–2026

Since 'Labour' is a subject listed in the Concurrent List, the central notification of 21 November 2025 on its own did not result in a uniform and enforceable system of compliance throughout the country. The various states have completed their Rules at very different speeds, so that an establishment's real contract labour obligations as of August 2026 still largely depend on the state in which it is located. At this stage, a contractor from Maharashtra and a similar contractor from a state that is moving more slowly might be operating under practically different obligations even though they are subject to the same central statute.

The adjudicatory system is also in a stage of mid-transition. In *MK Suresh Kumar v Union of India*[22], what seems to be the first High Court judgment directly dealing with the new Codes, the Kerala High Court confirmed a Central notification as well as a later amendment to the Industrial Relations Code which allowed the existing Labour Courts and Tribunals to carry on functioning until the tribunals provided for by the new Code have actually been set up. This decision can be seen as a practical compromise. At the same time it serves as a reminder that nine months after the official notification the adjudicatory system intended by the Codes was still not complete. Those who are following the implementation expect that the Supreme Court will be approached when further questions arise, particularly concerning the validity of the increased requirements for strike notices.

At the same time, as the case of Premium Transmission shows, a large number of disputes involving contract workers which stem from events that took place before the rules were codified will keep on being dealt with under the existing framework of the CLRA and the Industrial Disputes Act for many years, even though new contracts are being arranged according to the OSH Code. Regardless of how the Codes are designed on paper, their actual impact on contract workers is determined by the ability to enforce them in a labour market in which the majority of workers are still employed in an informal manner and are not part of any registration system. Many observers consider this gap in enforcement to be the more basic constraint on the reform's ability to provide protection, and the field interviews in Part VIII show this directly at the grassroots level rather than just stating it. A licensing requirement can only offer protection to the workers that a labour inspector actually counts; it provides no protection for those that a contractor fails to register, which is a distinct and in some ways an

[22] *MK Suresh Kumar v Union of India* 2026 SCC OnLine Ker 2389 (order dated 17 February 2026); see also Kerala High Court (Gopinath P, J), decision of 8 April 2026 upholding the Industrial Relations Code (Amendment) Act 2026, discussed in SCC OnLine Blog, 'Ker HC: Industrial Relations Code Amendment Act, 2026 Upheld; Continuation of Labour Tribunals Not Arbitrary' (28 April 2026) <https://www.scconline.com/blog/post/2026/04/28/ker-hc-industrial-relations-code-amendment-act-2026-upheld-continuation-of-labour-tribunals-not-arbitrary/> accessed 9 August 2026.

earlier problem than anything that can be solved by the text of the OSH Code.

X. A view from the standpoint of comparative and international law

India has not ratified ILO Convention No 87 (Freedom of Association and Protection of the Right to Organise, 1948) or Convention No 98 (Right to Organise and Collective Bargaining, 1949), even though the central trade union confederations in India have carried on a campaign for ratification for over ten years[23]. The higher strike notice and union recognition thresholds set out in the Industrial Relations Code are likely to maintain this gap in the international attention, especially in the light of the International Court of Justice's advisory opinion of 21 May 2026, which was obtained at the request of the ILO and confirms that the right to strike is protected as a consequence of Convention No 87 for those states that have ratified it[24]. Since India has not ratified the convention, the opinion does not apply directly to it, but the difference does bring greater attention to the collective action provisions which the Industrial Relations Code has made more stringent.

When it comes to contracting out, the ILO's Private Employment Agencies Convention of 1997 (No. 181) provides an international example. The Convention's provisions regarding the licensing of agencies, the protection of workers from being charged recruitment fees, and the requirement that agency workers should receive equal treatment are very similar to those currently being tried out in the OSH Code in the area of licensing contractors. Instead of basing its regulations on this Convention, India has decided to develop its own regulatory framework. This represents a deliberate domestic policy decision, although it means that India's system for contract labour is not formally covered by the two international instruments most directly concerned with the collective aspects of this issue. Such a choice is not uncommon, since a number of major economies regulate contract and agency labour via domestic law without ratifying the relevant ILO conventions. It does, however, mean that Indian workers who wish to make use of international labour standards generally have to do so by means of a domestic constitutional argument   the type of argument that retired judges have previously advanced under Articles 14, 19 and 21   rather than by means of direct enforcement of treaties.

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[23] International Labour Organization, 'Indian Unions set up joint platform for the ratification and application of C87 and C98' <https://www.ilo.org/resource/news/indian-unions-set-joint-platform-ratification-and-application-c87-and-c98> accessed 9 August 2026.

[24] *Right to Strike under ILO Convention No 87* (Advisory Opinion) International Court of Justice (21 May 2026).

XI. A critical synthesis: a step forward or a retreat in regulation?

The material presented here cannot be given a simple yes-or-no answer; the most reasonable view is that the OSH Code has a progressive form but might have a regressive effect in practice, and it is impossible to say which of these characterisations is correct merely on the basis of the statutory text.

The Code is progressive in three respects which have already been identified. It has replaced a system that relied on the relevant Government exercising its political will to notify the abolition of each particular rule with one that includes a self-operating statutory default. It has combined twenty-nine overlapping pieces of legislation into one unified framework which is administered digitally and contains consistent definitions. Furthermore, it is the first time that the idea of statutory floor protection has been applied to work carried out on a gig or platform basis. Yet it is likely to have a regressive effect since the rise in the threshold, the wide range of exclusions concerning core activities and the proviso, together with the continued lack of specificity at the rule level, result in large areas of discretion for employers precisely those areas in which, as shown by the litigation under the CLRA, discretion had most often been used against workers' interests, namely in deciding what constitutes core activity and in determining the scope of licensing. As the field interviews in Part VIII indicate, even the most clear-cut protections provided by the CLRA only applied in cases where compliance was self-enforcing, and the OSH Code's design contains no specific measures to close the gap that existed previously.

There is a deeper continuity in both interpretations. It is not in fact the case that there has been a single, dramatic break with the past. As Part III demonstrated, the *SAIL* Constitution Bench had already shifted the CLRA away from automatic absorption in 2001, some twenty years before the law was codified. What the OSH Code achieves is the completion of a course of development which Indian labour jurisprudence has been following for a while, giving statutory form to a philosophy of managed flexibility to which the courts had, through their interpretations, come very close to arriving well before Parliament took any action. When seen in this light, the question raised by the title of this article is less one that can be settled with a single correct answer at this time than a continuing contest which will be decided Rule by Rule and case by case over the coming several years. The onus now is on implementation, that is to say on inspection capacity, on clarity in the Rules and on judicial vigilance, to decide which of the two characterisations this reform will in the end receive. Someone who is inclined to settle the question merely on the strength of one side's rhetoric whether that of the Government, which maintains that this is reform, or that of the unions, who say it is a retreat should instead regard both positions as claims that must still be tested against the Rules and the case law as they come forward, rather than as conclusions that the statutory text can support on its own.

XII. Conclusion and Recommendations

The regulation of contract labour in India has undergone a long evolution: it has moved from an unregulated state during the colonial period, through a phase characterised by deliberate regulation accompanied by the selective abolition under the CLRA, and has since been shaped by fifty years of fluctuating rulings by the Supreme Court, ending with the SAIL decision, to a new system that is now codified and managed digitally but remains in the text very permissive, the OSH Code coming into formal effect in November 2025 even though it is still being put into practice from state to state. Neither the government's enthusiastic statements nor the trade unions' full-scale criticism fully reflect this situation; each of them only captures part of the truth. As Part VIII indicates, the old and rather basic issue of enforcement might end up being more important than either side's speeches. A law student who is reading the OSH Code for the first time could reasonably be forgiven for thinking that, at first glance, it represents a real improvement on the CLRA. A labourer working on a construction site in Maharashtra, if asked whether anything has changed, might reasonably say that she does not know, since no one has told her.

The following four recommendations are made. The mechanism established to classify core and non-core activities should be put into operation without any further delay, and example lists tailored to each sector should be included in the Rules. Introducing a reasonable limit on the renewal of fixed-term contracts something that the Second National Commission on Labour itself suggested in 2002 would reduce the risk of fixed-term employment replacing rather than supplementing both permanent positions and licensed contract labour. The capacity for inspection should be enhanced together with the transparency of the new electronic compliance system, and this enhancement should in particular cover the rights identified by the field research in this article as being the weakest, namely maternity leave, childcare and the automatic disclosure of a worker’s rights when their employment ends, since these are the safeguards most unlikely to enforce themselves. The decision to ratify ILO Conventions Nos

87 and 98 would serve to boost the international legitimacy of India's collective bargaining system at a time when its domestic rules concerning strike notices and union recognition are coming under the most intense scrutiny.

The question raised in this article will be better answered by the forthcoming eighteen to twenty-four months of Rule notifications, sectoral classification and unavoidable litigation than it could ever be by looking at the statutory text alone. Similarly, it will be determined in a lesser way by whether the next worker interviewed at a site in Maharashtra or Gujarat has to ask for a service certificate or is simply provided with one.

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