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FIXED TERM EMPLOYMENT AND JOB SECURITY: A DOUBLE EDGED SWORD

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I. ABSTRACT

The idea of fixed-term employment has become more popular in India as a result of labour reforms meant to encourage investment and increase workforce flexibility. The protection of employee rights and long-term job security are major concerns, even if it enables companies to control labour costs and adapt to shifting market needs. This paper critically analyses the legislative framework pertaining to fixed-term employment, specifically as it relates to the Industrial Relations Code of 2020⁵⁸⁶, and considers its effects on social security, job stability, and ethical labour practices. The study uses a doctrinal and socio-legal approach to show how, depending on how they are used and enforced, fixed-term contracts can be both an opportunity and a source of exploitation. It also discusses the difficulties in striking a balance between worker protection and economic flexibility. Highlighting the need for more robust protections and changes to policies. According to the study's findings, fixed-term employment frequently works against the goals of justice and labour welfare, even though it may be advantageous in theory.

Keywords: Economic rights, worker protection, flexible work arrangements, job security, labour law, the Industrial Relations Code, job security, fixed-term employment, employment policy, and socio-legal research.

GRASP - EDUCATE - EVOLVE

⁵⁸⁶ The Industrial Relations Code, No. 35 of 2020, Acts of Parliament, 2020 (India).

II. INTRODUCTION

Fixed Term Employment which means that employee will be employed to work for a fixed term subject to execution of written contracts with them and can be renewed after said term expiry with the mutual consent of employer and employee. This type of work does not constitute permanent employment. The concept of FTE was introduced in the domain of Indian Labour Law through the Central Government Notification in February 2017. However, the provision was introduced only for employees in the Apparel Manufacturing Units, which was extended to a few other sectors including leather industries etc. in January 2018.

In the backdrop of the promotion of ease of doing business provision was extended to all the sectors with the enforcement of the Industrial Employment (Standing Orders) Central Amendment Rules, 2018 (hereinafter referred to as the "Amended Rules of 2018"). The Rules further provided that the FTE workmen shall be administered equal but proportionate benefits, in relation to his working hours⁵⁸⁷, remuneration and other statutory benefits, as are administered to permanent workers, without consideration of the period of service so far as what will be covered under the statutory qualifications of entitlement to the particular benefits. The Rules further mention that these workers would also be entitled to gratuity if the service renders under the employer is more than one year. Nonetheless, the employers are not mandatory to provide the notice and cause of termination

III. RESEARCH PROBLEM

- A. "Does the legal framework around fixed-term employment in India truly protect workers' rights, or does it open the door for exploitation under the mask of flexibility and economic efficiency?"

In the current job market, both public and private sector employers are increasingly utilizing fixed-term employment contracts. These agreements are lawful and provide employers with the flexibility to cut long-term expenses and bring in workers for short-duration projects.

Nonetheless, this rising pattern poses significant concerns for employees. Those on fixed-term contracts frequently experience instability, a lack of long-term benefits, no continuity in employment, and limited opportunities for advancement. In India, although the recent Labor Codes (notably the Industrial Relations Code, 2020) aim to grant fixed-term workers equal rights, numerous employers exploit these contracts to circumvent making workers permanent.

This results in a paradox: while it may benefit employers and ostensibly lower unemployment rates, it simultaneously renders jobs more temporary and precarious.

IV. HYPOTHESIS

A. Primary Hypothesis

While fixed-term employment is legally acknowledged in India, it does not provide adequate job security and long-term benefits for workers, making it more advantageous for employers than for employees.

B. Alternate Hypothesis

In spite of its limitations, fixed-term employment can serve as a reasonable compromise for short-term economic demands and can uphold employee rights if current legislation is effectively enforced.

C. Null Hypothesis

There exists no substantial difference between the job security and legal protection granted to fixed-term employees and that provided to permanent employees under Indian labor law.

V. RESEARCH METHODOLOGY

- Qualitative Analysis: Examining how fixed-term employment affects job

⁵⁸⁷ V.V. Giri National Labour Institute, Impact of Labour Law Reforms on Fixed-Term Employment in India, Research Paper, 2021

security through a review of legal literature and secondary data.

- Comparative Analysis: Analyzing Indian laws in relation to foreign jurisdictions (such as the UK, Germany, or the ILO model) to uncover gaps or effective practices.
- Critical Analysis: Assessing whether legal reforms genuinely safeguard fixed-term workers or if they primarily benefit employers.

Sources of Data:

A. Primary Sources:

Legislation:

- Industrial Relations Code, 2020,
- Labour Codes,
- Court rulings,
- Government notifications and circulars

B. Secondary Sources:

- Scholarly articles, commentaries, research papers
- Government publications (e.g., from the Ministry of Labour, PRS India)
- Books focused on labor law
- Reports from organizations like ILO, NITI Aayog, or various think tanks

VI. SCOPE OF THE STUDY

A. Geographical Scope:

This research centers predominantly on India, especially in light of its recent labor reforms, with a particular emphasis on the establishment of fixed-term employment provisions as outlined in the Industrial Relations Code, 2020. It may also incorporate brief comparative analyses of international labor standards or practices (such as ILO conventions, the UK, or EU frameworks) to underscore both the strengths and weaknesses present within the Indian system.

B. Legal Scope:

This investigation will encompass:

Labor legislation concerning fixed-term employment (notably the Industrial Relations Code)

Additional pertinent statutes like the Contract Labour (Regulation and Abolition) Act and the Factories Act Judicial interpretations and significant case laws regarding fixed-term contracts and the rights of workers.⁵⁸⁸

C. Conceptual Scope:

This research examines job security, employee entitlements, benefits, and conditions for termination within fixed-term employment.

It also considers the viewpoint of employers, which includes flexibility, cost efficiency, and hiring for specific projects.

The study investigates whether fixed-term employment is implemented lawfully or misused to sidestep permanent employment obligations.

D. Time Frame of Analysis:

The analysis predominantly centers on developments following the legal recognition of fixed-term employment in India from 2018 onwards.

Particular emphasis is placed on the execution of the Labor Codes in 2020 and employment trends after COVID-19.⁵⁸⁹

E. Nature of Study:

This research is both doctrinal and socio-legal, drawing on legal texts, court rulings, government publications, as well as secondary sources such as journal articles and news articles.

VII. OBJECTIVES OF THE STUDY

1. To investigate the legal framework surrounding fixed-term employment in India, particularly as outlined in the Industrial Relations Code, 2020, along with other applicable labor legislation.

2. To evaluate the effects of fixed-term employment on job security, employee entitlements, and access to benefits such as

⁵⁸⁸ ILO, Non-Standard Employment Around the World: Understanding Challenges, Shaping Prospects, 2016, available at: https://www.ilo.org/global/publications/books/WCMS_534326/lang-en/index.htm.

⁵⁸⁹ Ministry of Labour and Employment, Standing Orders (Central) Rules, 2020, Notification dated 31st December 2020, Government of India.

gratuity, social security, and employment continuity.

3. To analyze the benefits and drawbacks of fixed-term employment from the viewpoints of both employers and employees.

4. To assess the effectiveness of existing legal protections for fixed-term employees and determine if these protections are being appropriately implemented or potentially exploited.

5. To pinpoint the challenges and deficiencies within the Indian legal system regarding the misuse of fixed-term contracts to circumvent the provision of permanent employment status.

6. To contrast Indian regulations with international benchmarks (such as ILO guidelines or labor legislation from other nations) in order to identify global best practices.

VIII. LEGAL FRAMEWORKS AND ECONOMIC IMPLICATIONS OF FIXED TERM EMPLOYMENT AND JOB SECURITY

A. Important clauses of the 2020 Industrial Relations Code:

1. **Fixed-term workers must receive the same treatment as permanent workers in the following areas:** Pay Work hours Permissions gratuity (after a year of employment) Retrenchment compensation is not required when a fixed-term contract expires, which is a significant problem for job security.

2. **Additional Pertinent Legal Documents:** Act of 1970 on the Regulation and Abolition of Contract Labour 1948's Factories Act⁵⁹⁰. The 1952 Employees' Provident Fund & Other Provisions Act ILO treaties (India has ratified a number of important treaties pertaining to worker protection and nondiscrimination).

3. **Court Decisions:** If FTEs aren't used to illegally deny permanent status, courts have upheld them. However, courts often stress that ongoing

short-term contract renewals may constitute unfair labour practices.

B. Economic Consequences of Long-Term Employment

1. **for employers:** More recruiting and firing flexibility for employers, particularly in positions that are seasonal or project-based. Decreased weight of long-term obligations (e.g., no requirement for retrenchment compensation or severance pay). Helps draw in investment and enhance the ease of doing business.

2. **For employees:** Uncertain job tenure many employees worry that their jobs won't be renewed. Career advancement and long-term social security benefits are restricted. Trade unions and collective bargaining institutions are frequently excluded.

3. **For the economy:** Short-term increase in employment (particularly following COVID-19) for the economy. Due to employment instability, there are long-term problems with consumer spending, worker wellbeing, and income stability. might cause official employment to become more casual.

4. **International Comparison:** FTEs are heavily regulated in nations like France and Germany, which guarantee permanent status after a certain amount of time and restrict renewals. In comparison, labourers in India are more susceptible due to lax enforcement.

IX. JOB SECURITY AND ECONOMIC RIGHTS: A DOUBLE EDGED SWORD

Something that has both beneficial and detrimental impacts is referred to as a double-edged sword. When discussing economic rights and job security, particularly in fixed-term work, this dual character is evident.

A. The Benefit (Protective Edge):

1. **Provides stability:** Having a stable job allows employees to prepare for the long term (housing, schooling, etc.), have regular income, and feel at ease.

⁵⁹⁰Contract Labour (Regulation and Abolition) Act, No. 37 of 1970, Acts of Parliament, 1970 (India)

2. Advances social justice: Fair salaries, social security, and gratuities are examples of economic rights that contribute to the reduction of poverty and inequality.

3. Boosts output: Safe employees are typically more driven and devoted to their company.

B. The drawback (restrictive edge):

1. **Reduces employer flexibility:** Businesses may find it more difficult to adjust while working on short-term or project-based projects if they are subject to too many strict protections.

2. **Prevents new hiring:** In small and medium-sized businesses in particular, employers may steer clear of permanent hiring in order to avoid long-term commitments.

3. **Promotes the abuse of fixed-term contracts:** To avoid offering permanent employment, employers may utilize, FTE, denying many people access to economic rights and job stability.

4. **The Regarding Fixed-Term Employment:** By providing them with the same benefits as permanent employees, the law tries to protect temporary workers.

In reality, however, many employees are replaced after brief tenures without any advancement, job continuity, or true security.⁵⁹¹ Therefore, fixed-term employment can compromise true job security even while it may provide financial freedom.

X. CONCLUSION

In India, fixed-term employment has become a double-edged sword despite being legally recognized and meant to provide flexibility in a changing economic environment. Employers benefit from being able to effectively manage labour demands, lower long-term obligations, and react to shifts in the market. In the short run, it may also lower unemployment rates. On the other hand, employees with fixed-term contracts frequently have inadequate career advancement opportunities, job insecurity, lack

of continuity, and restricted social safety. Even though the Industrial Relations Code of 2020 guarantees equal pay and benefits, the spirit of labour welfare is undermined in the lack of long-term employment assurance. Particularly in the private sector, the abuse of fixed-term employment to evade regularization raises grave concerns over the erosion of workers' constitutional and economic rights. The ratio of job security to economic efficiency shouldn't be skewed too far in favour of employers

XI. REFERENCES

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2. Contract Labour (Regulation and Abolition) Act, 1970 Bare Act and relevant case law interpretations.
3. Standing Orders (Central) Rules, 2020 Notification by the Ministry of Labour and Employment, Government of India.
4. International Labour Organization (ILO) ILO Convention No. 158: Termination of Employment Convention, 1982 ILO Reports on Non-Standard Forms of Employment Available at: <https://www.ilo.org>

⁵⁹¹ Aditi Bhatt, Fixed-Term Employment: Boon or Bane?, (2020) 55(41) Economic and Political Weekly 14.