

The exploitation of blue collar temp workers

This can change if the CLRA Act, with its irrational and unenforceable provisions, is amended

SMALL tweaks to the Contract Labour Act could end the criminal and political nexus that exploits blue collar temp workers. Government statistics put temporary and contract jobs at 21% of India's labour force, an astounding 80 million people. Given that the organised temp sector employs only 1,75,000 people, most sides of the usually polarised labour debate agree that the "legislation created" exploitation of 98% of contract labour in the unorganised sector needs to end.

The irrational and unenforceable provisions of the Contract Labour Regulation and Abolition Act (CLRA) ensure the only capability required of the unorganised temping sector is providing employers with "regulatory arbitrage" in avoiding labour laws via strong political, criminal or regulatory connections.

The unorganised temping sector has a well-earned reputation for exploitation. No health, safety or minimum wage laws apply. There is no leave with pay. And no defined contribution savings, pension participation, health insurance, death coverage or gratuity. Where these deductions are made, they are often not deposited to the credit of individuals.

Most dangerously, there is no transparency around contractor service fee that could reach a usurious 40%-50% of wages (relative to 8%-15% for the

organised sector). The positives of organised temping, like the apprentice effect (45% find permanent jobs within a year) and portal effect (disproportionate representation of labour market outsiders) are missing.



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► **Nearly 21% of India's labour workforce is in temporary and contract jobs**

► **Employers using labour from unorganised temping sector, exploiting it**

► **An effective regulatory and industry framework is needed to protect them**

CLRA also creates a 20% wage differential between perm and temp blue collar workers, missing in white collar temping. This is compounded by diminished organisational and human capital, since contractors rotate blue collar temps among different entities just as they approach random dates in legislation (182/240 days) that accrue permanency claims.

These unintended and tragic consequences have four roots. First is the impotence of CLRA, arising from considering contractors unaccountable flow-through entities. They are not the "principal employer" and there are no licensing, net worth or other barriers to entry. This lack of accountability creates incentives and opportunities for exploitative contractors and short-term players that do not make investments in processes, infrastructure, people or liquidity abilities.

Second are random dates in legislation (182/240 days) that violate the sanctity of fixed-term contracts (i.e., a 90-day job ends in 90 days and does not accrue permanent employment rights). The CLRA's light touch on permanency is amplified by court judgments, but this legislative and judicial combination requires blue collar contractors to suppress permanency demands by tactics at the edge of the law (if you ask for permanency, I'll break your legs!).

Third is the enforcement subjectivity arising from an unqualified restriction on using temps in core and perennial work. Fourth is a nightmarish licensing regime that requires separate licences for every client location. What needs to be done? We need a licensing regime for contractors that makes them the principal employer. We need to legislate the legitimacy of fixed-term contracts.

In a world of outsourcing, we need to remove restrictions on temping in core and perennial work. And we need simplification and transparency in licensing. Most reform attempts are sunk by the exploitation argument. But drunk driving is not an argument against cars, just as the shenanigans of Global Trust Bank are not an argument against SBI. Unorganised sector abuses should not hold back reform that would neutralise the potency of regulatory arbitrage and create an effectively supervised and well-capitalised temporary staffing industry that competes on service, technology, compliance and reputation.

Blue collar temp workers suffer from information asymmetries, low labour mobility and weak bargaining power. They need an effective regulatory and industry framework. CLRA fails to reduce exploitation and may increase it by making outsourcing to the informal manufacturing or service sector more attractive than hiring a temp in the formal sector. The CLRA hurts the very blue collar workers it masquerades to protect. But can we force powerful vested interests to put aside private good for the greater good? Probably not. But it's time to overrule them to help those in the labour market who cannot help themselves.

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