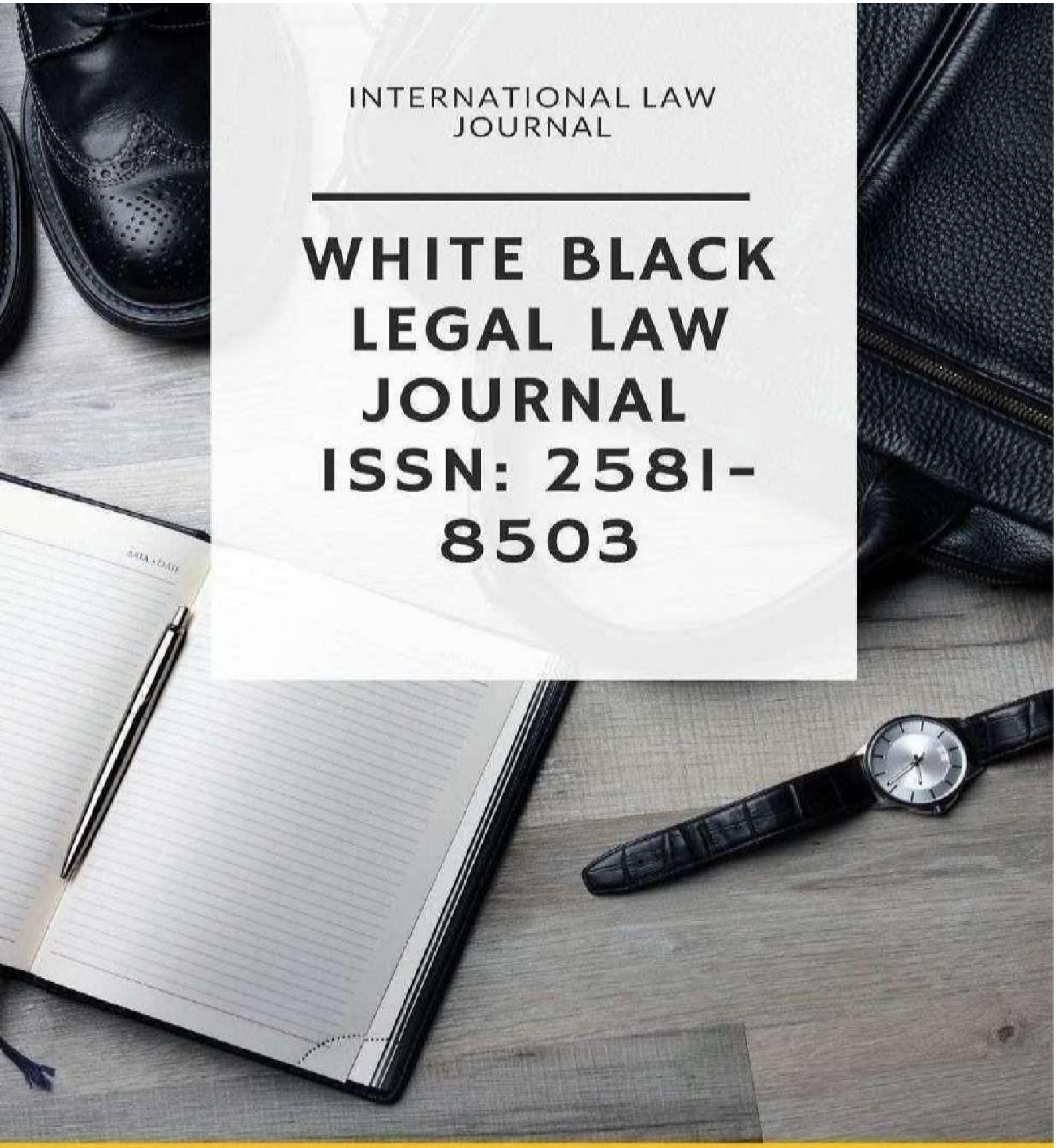

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"REGULARISATION OF LONG-TERM CONTRACT WORKERS: LEGAL DEBATE AFTER THE 2026 VERDICT"

AUTHORED BY - VASANTH K & KUMUDHA

ABSTRACT

The question of regularisation of long-term contract workers has remained one of the most contested issues in Indian labour jurisprudence, situated at the intersection of constitutional guarantees, labour welfare, and administrative efficiency. The 2026 verdict of the Supreme Court has reignited this debate by revisiting the limits of judicial intervention in directing absorption of contract labour into permanent service.

The 2026 ruling attempts to strike a nuanced balance between preventing backdoor entry into public service and addressing the systemic exploitation of workers engaged in long-term contractual arrangements. It acknowledges that prolonged engagement, often spanning decades, blurs the distinction between temporary and permanent employment, thereby raising concerns of fairness, legitimate expectation, and substantive equality. At the same time, the Court reiterates that regularisation cannot be claimed as a matter of right in the absence of a sanctioned post or compliance with constitutional recruitment procedures.

This paper critically examines the evolving legal position on regularisation in light of the 2026 verdict, analysing its doctrinal foundations, its departure or continuity with established precedents, and its implications for labour rights and public administration. It also explores the persistent enforcement gap, wherein judicial pronouncements fail to translate into meaningful relief due to administrative reluctance, fiscal constraints, and lack of a coherent statutory framework governing contract labour. The study argues that while the judiciary has played a significant role in shaping the discourse, lasting reform requires legislative intervention to establish clear standards for engagement, tenure, and eventual absorption of long-term contract workers.

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1. Author VASANTH K, B. COM., LL.B (Hons) VISTAS
2. Co-Author KUMUDHA ASSISTANT PROFESSOR, LAW DEPARTMENT VISTAS

INTRODUCTION

The issue of regularisation of long-term contract workers occupies a central place in Indian labour law, reflecting the ongoing tension between constitutional principles of equal opportunity in public employment and the socio-economic realities of precarious work. Over the past few decades, the increasing reliance on contractual labour by the State and its instrumentalities has transformed the nature of public employment, raising critical concerns about job security, fair wages, and the erosion of labour protections. Workers engaged on a contractual or temporary basis often continue in service for years—sometimes decades—performing functions identical to those of permanent employees, yet without corresponding benefits or stability.

The legal debate surrounding regularisation has been significantly shaped by judicial pronouncements of the Supreme Court of India, most notably in *Secretary, State of Karnataka v. Umadevi (2006)*, which laid down a restrictive framework by holding that regularisation cannot be granted in violation of constitutional requirements under Articles 14 and 16. The Court cautioned against the practice of "backdoor appointments" and emphasized that public employment must be governed by transparent and competitive recruitment processes. However, subsequent decisions have attempted to soften the rigidity of this position by recognizing limited exceptions, particularly in cases involving long and continuous service under irregular—but not illegal—appointments.

The 2026 verdict marks a crucial moment in this evolving jurisprudence, as the Supreme Court revisits the competing considerations of administrative discipline and social justice. While reaffirming the constitutional bar against automatic regularisation, the Court acknowledges the structural realities that compel workers to remain in insecure contractual arrangements for prolonged periods. It engages with concepts such as legitimate expectation, fairness in state action, and the need to prevent exploitation arising from the indefinite use of temporary labour for permanent work.

Despite these judicial interventions, a persistent gap remains between legal principles and their implementation. Government authorities frequently continue the practice of engaging workers on a contractual basis without clear pathways for absorption, often citing financial and administrative constraints. This has resulted in a growing class of workers who exist in a state of legal and economic uncertainty, with limited recourse to enforce their rights.

Against this backdrop, this paper seeks to examine the legal debate on regularisation in the aftermath of the 2026 verdict. It analyses the doctrinal evolution of the law, the tensions inherent in balancing constitutional mandates with labour welfare, and the need for a comprehensive statutory framework to address the challenges posed by long-term contractual employment. The discussion underscores that meaningful reform must go beyond judicial pronouncements and focus on systemic changes that ensure both fairness in recruitment and dignity in employment.

1.1 The Colonial Foundations: Pre-Independence Regulation

The origins of labour regulation in British India were primarily motivated by considerations of industrial productivity and the maintenance of public order rather than the protection of workers' rights. The Workmen's Breach of Contract Act 1859, which criminalised breach of employment contracts by workers, exemplified this orientation. Subsequent legislation, including the Factories Act 1881 and its successors, addressed working conditions in specific industries without establishing a general framework for the regulation of intermediary labour arrangements.[1]

The phenomenon of contractor-mediated labour was prevalent in colonial India, particularly in plantations, mines, and construction. The Royal Commission on Labour in India (1931), popularly known as the Whitley Commission, documented the widespread engagement of workers through middlemen known as jobbers or maistries, who recruited and supervised labour on behalf of employers. The Commission noted the potential for abuse inherent in such arrangements and recommended greater direct employer responsibility for labour conditions.[2]

The Government of India Act 1935 conferred concurrent legislative power on the Centre and the provinces in respect of labour matters, laying the constitutional foundation for comprehensive labour legislation. However, the pre-independence period did not witness the enactment of specific contract labour legislation; the regulatory gap was filled in part by general industrial relations and workmen's compensation statutes.[3]

1.2 Constitutional Foundations and Post-Independence Legislative Framework

The Constitution of India 1950 transformed the normative basis of labour regulation. The Fundamental Rights in Part III and the Directive Principles of State Policy in Part IV together

[1]National Campaign Committee for Central Legislation on Construction Labour, 'Contract Labour in Construction Industry' (NCC-CL, 2005) 8.
[3]S Venkataraman, Labour Law and Practice in India (3rd edn, LexisNexis 2018) 234.

established a framework within which labour law would develop. Article 14's guarantee of equality before the law, Article 21's protection of life and personal liberty, and the cluster of social justice directives in Articles 38, 39, 42, and 43 provided the constitutional backdrop against which contract labour regulation would be evaluated.[4][5]

The Constituent Assembly debates reveal a deep commitment to the welfare of working people, with several members highlighting the exploitative potential of intermediary labour arrangements. Dr B R Ambedkar, as Law Minister, articulated the vision of an order in which economic democracy would complement political democracy, a vision that has informed the judicial interpretation of labour statutes in subsequent decades.[6]

In the immediate post-independence decades, labour policy was guided by the Industrial Policy Resolution 1948 and the successive Five Year Plans, which emphasised the expansion of organised sector employment and the regulation of working conditions. The Industrial Disputes Act 1947 provided mechanisms for the resolution of industrial disputes and, crucially, defined 'workman' in broad terms that would become central to subsequent regularisation claims.[7]

1.3 The Contract Labour (Regulation and Abolition) Act 1970

The most significant legislative development in the history of contract labour regulation in India was the enactment of the Contract Labour (Regulation and Abolition) Act 1970 (CLRA). Enacted after extensive deliberation by the National Commission on Labour (1969), the CLRA established a comprehensive regime for the regulation and, where appropriate, abolition of contract labour in specified establishments and industries.[8]

The CLRA applies to establishments employing twenty or more contract workers on any day of the preceding twelve months, and to contractors employing twenty or more workmen on any day of the preceding twelve months.[9] The Act creates a system of licensing for contractors and registration for principal employers, imposes obligations regarding amenities and welfare measures for contract workers, and empowers the appropriate government to prohibit contract labour in specified processes or operations.[10][11]

Section 10 of the CLRA is its most consequential provision. It empowers the Central or State Government to prohibit the employment of contract labour in any process, operation, or other

[4]Constitution of India 1950, art 21.
[5]Constitution of India 1950, arts 38, 39, 42, 43.
[6]A M Singvi, 'Social Justice and the Indian Constitution' in B N Kirpal and others (eds), Supreme But Not Infallible (OUP 2000) 286.
[9]Contract Labour (Regulation and Abolition) Act 1970 (India), s 1(4).
[10]CLRA 1970 (n 1), s 7.
[11]CLRA 1970 (n 1), s 12.

work of any establishment if the work is of a perennial nature, if it is sufficient to employ a full-time worker, if it is incidental or necessary to the main work, or if it is the ordinary work of the establishment. The exercise of this power has been the subject of extensive litigation, and the consequences of prohibition—particularly whether it automatically entitles workers to absorption—were contested for three decades before the Supreme Court's resolution in Steel Authority of India.[12]

A critical limitation of the CLRA, which has contributed significantly to the vulnerability of contract workers, is its silence on the consequences of prohibition of contract labour. The Act does not expressly provide that upon prohibition, the principal employer must absorb the erstwhile contract workers as its direct employees. This silence generated conflicting judicial interpretations at the High Court level and was ultimately resolved by the Supreme Court's Constitution Bench decision in Steel Authority of India, which held that prohibition under section 10 does not ipso facto entitle contract workers to absorption or regularisation.[13]

1.4 Judicial Development: The Pre-2001 Era

In the decades following the enactment of the CLRA, the courts were called upon to address a range of issues relating to the status of contract workers, including the distinction between genuine and sham contract arrangements, the scope of the principal employer's liability, and the circumstances in which contract workers could claim regularisation.[14]

The concept of the 'sham contract,' wherein the purported contractor is in reality a mere agent of the principal employer and the workers are in substance the employees of the principal employer, was developed through a series of decisions that applied the 'control test' drawn from the common law. Where the principal employer exercised detailed day-to-day control and supervision over the work of contract workers, courts were inclined to pierce the contractual veil and recognise a direct employment relationship.[15]

Several High Courts, in the exercise of their writ jurisdiction, directed the regularisation of contract workers who had served for extended periods on the perennial work of establishments. These directions were grounded in principles of natural justice, equality, and constitutional protections against arbitrary dismissal. However, the absence of a clear statutory basis for such directions, and the varying approaches of different High Courts, created considerable doctrinal uncertainty.[16]

[15]Royal Twinings Ltd v Their Workmen AIR 1960 SC 1382.
[16]Gammon India Ltd v Union of India (1974) 1 SCC 596.

1.5 Steel Authority of India (2001): The Constitution Bench Clarification

The Supreme Court's Constitution Bench decision in Steel Authority of India Ltd v National Union Waterfront Workers (2001) was a landmark in the evolution of contract labour jurisprudence. The Court addressed two central questions: first, whether prohibition of contract labour under section 10 of the CLRA automatically results in the absorption of contract workers by the principal employer; and second, whether High Courts in their writ jurisdiction could direct regularisation of contract workers.[17]

On the first question, the Court held, by a majority, that prohibition under section 10 does not automatically confer the status of employee of the principal employer on the erstwhile contract workers. Regularisation could only follow if the appropriate government made specific rules or if the order of prohibition itself provided for absorption. This holding significantly curtailed the scope for automatic regularisation upon abolition of contract labour.[18]

On the second question, the Court affirmed the jurisdiction of High Courts under Article 226 to direct regularisation in appropriate cases, particularly where the contract arrangement was sham or camouflaged, or where the workers had served for long periods on perennial work. This qualification preserved a measure of judicial flexibility that would be further explored in subsequent years.[19]

1.6 Umadevi (2006): The Constitutional Caution

The Constitution Bench decision in Secretary, State of Karnataka v Uma Devi (2006) represented a significant recalibration of regularisation jurisprudence. While Umadevi primarily concerned the regularisation of employees appointed on temporary or daily wage basis in public establishments rather than specifically addressing contract workers, its broad reasoning had substantial implications for contract worker regularisation claims.[20]

The Court in Umadevi held that equality of opportunity in public employment, as guaranteed by Article 16 of the Constitution, requires that appointments to public posts be made only through due process, including advertisement, competitive examination, and selection. Regularisation of persons appointed without following such procedures would create a class of employees appointed in an arbitrary and unconstitutional manner and would perpetuate unconstitutionality. The Court expressed concern about the proliferation of writ directions for regularisation and sought to impose discipline on this area of law.[21]

Umadevi created a tension with the earlier regularisation jurisprudence that the 2026 Verdict

[18]Steel Authority of India (n 3) para 92.

would seek to resolve. Its principles, though directed primarily at public sector employment, were frequently invoked by respondents in contract worker regularisation cases as a basis for resisting absorption claims.[22]

CONCLUSION

The legal position after the 2026 judicial developments in India reflects a **clear but nuanced shift**—away from automatic regularisation, yet not entirely dismissive of workers' claims grounded in fairness and long service.

At one level, the Supreme Court has **reaffirmed the constitutional discipline of public employment**. The 2026 rulings stress that contractual or ad hoc employees **cannot claim regularisation as a matter of right**, especially where appointments bypassed proper recruitment procedures. Courts have cautioned that granting blanket regularisation would **undermine Articles 14 and 16**, dilute merit-based selection, and legitimise arbitrary hiring practices.

The decision in *Madan Singh v. State of Haryana (2026)* reinforces this stance by effectively "closing the backdoor" to permanency where there is no transparent or lawful initial appointment process.

However, the debate does not end there. Parallel judicial trends—both in the Supreme Court and High Courts—highlight a **countervailing equity-based approach**:

- Courts have held that **long, continuous, and necessary service**, especially against sanctioned posts, can justify regularisation.
- Where workers were engaged through **due process (even if imperfect)** and have served for years, denial of regularisation may be **arbitrary and unconstitutional**.
- The judiciary has increasingly scrutinised the **"contractual label" as a possible façade**, particularly when workers perform core functions under direct control of the employer.

Recent High Court rulings further reinforce this humanitarian and constitutional lens, condemning exploitative outsourcing practices and directing regularisation where workers were kept in **perpetual temporariness despite long service**.

SUGGESTIONS

The 2026 legal position makes one thing clear: neither blanket regularisation nor unchecked contractualisation is sustainable. What's needed now is a structured policy response that balances constitutional requirements with labour fairness. Here are practical, legally grounded suggestions:

1. Codify Clear Criteria for Regularisation

Legislation or executive policy should define **objective standards** for when long-term contract workers may be regularised. These could include:

- Minimum years of continuous service (e.g., 5–10 years)
- Work performed against **sanctioned and permanent posts**
- Initial engagement through at least a **transparent or semi-formal process**

This reduces litigation and ensures consistency instead of ad hoc court-driven outcomes.

2. Strengthen Transparent Recruitment Systems

Governments and public bodies must avoid the root problem—**irregular hiring**.

- All appointments, even contractual ones, should follow **public notification and merit-based selection**.
- Digital recruitment platforms can ensure traceability and accountability.

This aligns with constitutional mandates under **Articles 14 and 16** and prevents future disputes.

3. Introduce a "One-Time Regularisation Window" with Safeguards

A carefully designed, **non-precedent-based scheme** can address legacy cases:

- Limited to workers already in service before a cut-off date
- Subject to screening for eligibility and competence
- Explicitly declared as a **one-time measure** to avoid misuse

This approach has been used before and can clear long-pending inequities without opening the floodgates.

4. Ensure Parity in Pay and Service Conditions

Even where regularisation is not granted, workers performing identical functions should not face stark disparities.

- Enforce the principle of **"equal pay for equal work"**

- Provide basic benefits: social security, leave, healthcare

This reduces exploitation while respecting the contractual nature of employment.

5. Regulate Outsourcing and Contractualisation

Many disputes arise from **indirect employment through contractors**.

- Limit outsourcing in **core and perennial functions**
- Mandate disclosure of the real employer–employee relationship
- Hold principal employers accountable for labour law compliance

This prevents misuse of contractual labels to avoid obligations.