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**FACULTY CONTRACTS AND EQUALITY RIGHTS: A LEGAL PERSPECTIVE ON
ACADEMIC HIRING PRACTICES**

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ABSTRACT

The growth of contract hiring in academia has raised concerns regarding the security of jobs, equity and general welfare of faculty. Universities, usually under the pretext of tight budgets and convenience, increasingly opt for temporary contacts instead of permanent appointments. Although this is an advantage to the institutions in the short turn, it makes faculty members deeply unequal among themselves, especially for minority groups, women and blue collar academics. These teachers tend to work in perilous conditions, with small salaries and far fewer perks, for essentially the same work as tenured faculty. This paper examines how contractual employment affects equality rights, in terms of legal safeguards, labor legislation, and university policies. It examines Indian constitutional guarantees such as Article 14 and Article 16 that provide for equality and justice in employment and contrasts them with international labor standards provided by institutions such as the International Labor Organization (ILO). It also examines real world issues that contractual faculty members have to deal with, such as lack of academic freedom, job insecurity, and minimal career advancement opportunities. This paper assesses global employment models, including the tenure system in the United States of America and more robust faculty protections in some western countries to point out the differences in India's model of academic employment. The study contends that without reforms, increased reliance on contract faculty threatens to undermine higher education in the long term. Proposed remedies include: improved legal protections, more defined routes to permanent employment, and more powerful faculty unions pushing for decent pay and job security. This paper highlights that the interests of fairness must take precedence over saving costs. Universities succeed when their academics are respected and secure, thus the need to reevaluate existing hiring patterns for a fairer academic future.

Keywords: Contract. Hiring, Wage, Labor, Faculty, Equal Pay, Equal Work.

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INTRODUCTION:

The shift towards contractual hiring in academia has been driven by key determinants, such as economic, institutional, legal and policy related factors. Over the past years, higher education institutions and universities have moved away from conventional permanent faculty positions, opting instead for temporary, contract-based faculty recruitment. This transformation has been particularly evident in countries like India, The United States and in some western countries. There are several reasons for this shift. Cost cutting measures is one of the main reasons for the hiring of contractual faculty. Permanent faculty positions come with higher salaries, benefits such as pensions, healthcare, paid leaves, house rent allowance, dearness allowance and tenure security. Hiring contractual faculty reduces lifelong financial commitments for universities, especially in times of budget constraints. Though the demand for higher education has grown significantly, government funding for universities has not kept pace at all. Universities and colleges try to address this gap by employing temporary staff, allowing them to accommodate a large number of students without increasing the cost of permanent faculty.

Colleges and universities in the current era function more like multinational corporations (MNCs), prioritizing efficiency and performance metrics. Short-term hiring allows institutions to adjust the number of faculty, research funding and changing curriculum. Like other industries, academia has welcomed contractual hiring and flexible work arrangements. Adjunct faculty, clock hour basis (CHB) faculty and visiting faculty roles have increased replacing stable, fulltime academic careers. In many countries, labor laws offer limited protection for academic contract workers¹.

A lack of clear policies on tenure directions or equal pay for contract faculty perpetuates job insecurities. Contractual hiring has been found to be legal in some jurisdictions but regulated by labor laws, constitutional safeguards and university policies. Equality in job employment such as equal treatment to the contractual workers is guaranteed by Article 14 & Article 16 of the Constitution and the Contract Labor (Regulation and Abolition) Act, 1970: Although it regulates contractual employment, it does not provide complete safeguard to academic workers. The University Grants Commission (UGC) guidelines make recommendations on faculty hiring, and these are implemented with variation. judicial precedents: The courts have demonstrated support of equal pay to equal work but the contractual faculty tend to be under compensated and lack benefits.

Legal Frameworks in other countries:

¹ V. Kavitha, *Role of Teachers After Implementing New Education Policy*, in **Impact of New Education Policy Among Future Generation** 322 (Nallamuthu Gounder Mahalingam Coll. ed., Feb. 2024)

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United States: At-will employment legislations permit universities to easily hire or fire contract faculty without much legal recourse. Europe: Countries such as Germany and France offer greater protections to labor, which means that contract faculty members have a clear route to tenure.

Legal Implications of contractual hiring The widespread application of contractual hiring in academia has a number of legal and social implications: Wage Inequalities and Abuse Contract faculty members tend to do the same tasks as their permanent counterparts but at lesser pay and with minimal benefits. The idea of equal pay to equal work is a challenge to implement legally²

BACKGROUND:

The movement towards contractual hiring of academic staff in higher education institutions can be said to have been initiated by the economic, political and institutional developments which have affected higher education in the past couple of decades.

Traditionally, the faculty appointments were mainly tenure track or permanent, with employment security, academic freedom, steady professional development. But ever since the beginning of the 22nd century, universities worldwide began to shift towards temporary, adjunct and contract faculty appointments. Although it provides universities and colleges with short term solutions, it has caused job insecurity and wage disparity to the faculty in addition to diminishing their academic freedom. The only way to answer these anxious questions is through legal reforms and greater labor protection and faculty hiring fairness and quality that will make higher education sustainable without affecting its fairness and quality.

Job Insecurity and Precarity: The absence of tenure-track positions creates instability, which complicates faculty members' planning of long-term careers. The courts have sometimes stepped in although the renewal of contracts is still hanging in the air.

Infringement of Academic Freedom: The faculty is not likely to work on critical research or hold controversial discussions due to short-term contracts. A part of incidents of wrongful termination has been contested in judicial courts, yet safeguards stay feeble.

Impact on Diversity:: Early career scholars, and groups from marginalized communities are disproportionately affected by contractual employment. Discriminatory hiring practices often go unchallenged due to weak legal protections³

The rise of contractual hiring in academia has had profound effects on research quality and academic freedom. Short term contracts, often lasting just a semester or a year, create an uncertain

² MHRD & World Bank, *Study on Faculty Employment Models in Indian Universities*, 51–66 (2020).

³ Indian Contract Act, 1872, §§ 2(a)–(b), 4, 13–20.

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work environment where faculty must constantly engage in securing their next job rather than focusing on long term scholarly pursuits.

Without the protection of tenure, contractual faculty may engage in self-censorship of their research results in order to avoid retaliation by administration, granting agencies or political forces. Scholars should be able to research on sensitive matters without the fear of losing their jobs, and this is the flourishing state of academic freedom. This is especially alarming in the areas of human rights, caste discrimination, gender studies, political science and law, in which critical views are not generally welcomed. Many research projects especially in disciplines like science, law, and social science, needs years of commitment to yield meaningful results⁴. Contractual faculty, uncertain about job renewal, avoid projects that require extended timelines, leading to a decline in groundbreaking research. Funding agencies and universities prefer researchers with stable affiliations, making it harder for contractual faculty to secure research grants.

The need for legal reforms to balance institutional flexibility with faculty rights, governments and universities can get introduced. Stronger legal protections for contract faculty, ensuring fair wages and benefits. Clear tenure pathways for temporary faculty to transition into permanent positions. Better enforcements of labor laws to prevent exploitation and job insecurity⁵.

1. NATURE OF APPOINTMENTS:

1.1 Appointments are usually for 6 months to 1 year, renewable based on institutional needs: The Indian higher education institutions usually appoint on contractual basis but those contracts are usually of short term usually six months or one year. Such contracts are usually designed in such a way that their renewal depended on institutional needs, budgetary availability, or management decisions. This arrangement is now becoming common because public universities and colleges are finding it difficult to have the regular teaching positions approved by the government departments or university governing councils. The exigencies of fulfilling the student-teacher ratio or the urgent need to fill in the vacancies caused due to resignations, retirements or approved leaves often push the institutions towards making short term appointments. Such flexibility has been viewed as administratively efficient, although at the cost of transparency and long-term academic planning. Recruitment exercises to fill such posts might be done in the form of walk-in interviews or local selection panels without the vigor and scrutiny

⁴ Indian Contract Act, 1872, schedules & amendments (2018).

⁵ *State of Punjab & Ors. v. Jagjit Singh & Ors.*, (2017) 1 S.C.C. 148 (J. Khehar & Bobde, JJ.)

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that is put in place during regular appointment and in some cases at the expense of quality and objectivity.

In addition, renewals are not automatic and are usually on unclear grounds usually involving satisfactory performance, continuation of course requirement or availability of funds which are never clearly defined or applied in a consistent manner. This indefiniteness imposes a considerable amount of psychological and professional pressure on contractual assistant professors who are required to re-apply, or re-negotiate the conditions of their employment every now and then. It also has no ceiling on the number of renewals or a policy that requires regularization after a certain length of continuing service that is being observed in other settings in the public sector⁶. Consequently, a number of teachers spend years in a cycle of temporary jobs without attaining stability and permanency. Besides eroding the morale and job satisfaction of the faculty, the practice destroys academic continuity and institutional memory, rendering the institutions more difficult to maintain quality output in terms of teaching and research.

1.2 Often lack permanency, retirement benefits, or promotion opportunities:

The lack of permanency is one of the main specifics of contractual assistant professor job positions. Contrary to the ordinary appointment, where an employee gets the privilege of working with the organization on a long-term basis enjoying a fixed career path, contractual positions do not guarantee any of these. Taxpayers employed on a contractual term can serve years and even decades without a way of regularization, even in cases when they meet all the requirements of the institution, and show long-term academic success. It is this insecurity of job that predisposes them to being fired at will or their contracts not renewed without reasonable cause or even warning.

The effect of this is that these faculty members work under constant professional stress, being aware that at the end of every term, they can be fired, despite their performance or their commitment. Besides lacking job security, contractual assistant professors are not normally included in the retirement and social security benefits that permanent employees enjoy. They are normally not members of any pension programs, contributory provident fund schemes, or gratuity systems⁷. The effects of these exclusions are long term given the fact that teaching is a lifetime profession and there are expectations of commitment and intellectual input. In the absence of retirement benefits, quite a number of contract teachers are looking at an unclear financial situation upon retiring, despite their many years of service in

⁶ *Olga Tellis v. Bombay Municipal Corp.*, (1985) 3 SCC 545 (right to livelihood under Article 21)

⁷ Madhur Chandra, *The Implications of Contract Teaching in India: A Review*, 44(2) *Comp. Educ. Rev.* 217 (2020)

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the public educational systems. In most instances even the leaves like earned leave, medical leave, and even maternity leave are either not available or are very limited in degree to contractual employees.

Another part of the systemic exclusion of contractual teachers concerns promotion and career advancement opportunities. The regular faculty members are also liable to get periodical promotion as per the Academic Performance Indicator (API) system and UGC norms, but the contract teachers, even though they may be performing the same or even more workload are not liable to any such benefits. Their output seldom contributes to seniority and further career advancement. No promotion avenues also deter long-term participation resulting in attrition and loss of academic cohesion in institutions⁸.

1.3 Duties are equivalent to permanent faculty, but pay and protections are typically less:

Although they are temporary employees, contractual assistant professors are normally given the same number of responsibilities as their permanent counterparts. The same teaching load is imposed on them, usually including giving several lectures a week, setting and marking examinations, advising students, and often even administrative duties, whether as departmental managers, examination coordinators or research project supervisors. Contractual faculty have become indispensable in most institutions, especially those experiencing critical staff shortages enabling them to maintain the continuity of the academic process.

Their role in institutional operations is therefore immense and, in most instances, it is not possible to draw a distinction between them and the normal faculty. Nonetheless, this equivalence in responsibilities does not correspond to equality in payments and job security. Contractual faculty usually receive a consolidated monthly pay which is well below the initial salary of a regular assistant professor according to the 7th Pay Commission or UGC guidelines. The normal job benefits like paid vacation leaves, medical reimbursements, housing, and travel expenses to conferences and seminars are also not provided to them. This pay gap is especially apparent in the light of the similar levels of qualifications needed, usually a NET qualification, Ph.D. or published work, and the teaching and academic interaction requirements⁹. Furthermore, contractual assistant professors usually lack access to institutional governance and decision-making. They do not belong to faculty meetings, or academic councils or selection committees, which makes their position

⁸ Susan M. White, *Contractual Arrangements in Academia: Implications for Performance*, 39 Econ. & Pol. Wkly. 2165 (2004).

⁹ **Ajay Hasia v. Khalid Mujib**, (1981) 1 SCC 722 (defining “State” under Article 12)

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in the academic community even more marginalized. This omission not only impacts their professional identity and belongingness but also restricts their capacity of influencing the policies that have a direct impact on their work. The net result is a systemic underestimation of their work, dissatisfaction, and, in most situations, burnout or leaving academia altogether¹⁰.

2. LEGAL FRAMEWORK**2.1 UGC Regulations (2018) allow for contractual faculty in special circumstances:**

The University Grants Commission (UGC) Regulations, 2018, was framed to ensure a level standard of recruitment, workload, and service conditions of higher educational institutions in India. Under these regulations, appointment of contractual faculty is allowed but in a case of special circumstances. These cases can be Chronic shortage of faculty until the recruitment procedures of permanent appointments are completed or the inability to achieve student-teacher ratios. It is aimed at the preservation of the flow of academic life and the absence of deterioration of the educational process. But what constitutes special circumstances is not well defined and leaves universities with wide latitude to use temporary faculty as a normal practice, not as an exception. Due to this, the regulatory objective of restricting contractual appointments has regularly been blurred in the real institutional behavior.

The UGC guidelines, though insist that the contractual faculty should have the same qualifications as that of the regular faculty, do not insist on equal standards of the selection process and job security. Most institutions take the guidelines casually and end up in short term and ad hoc appointments that do not have stringent selection procedures and therefore circumvent the issue of recruitment based on merit. This has created a system of parallel employment in the academic world, with a high percentage of teaching staff employed on precarious contracts, with no stability or long-term future.

Also, the lack of time-based regularization policies within the UGC regulations places the contractual faculty under a consistent state of insecurity. In the absence of clearly defined protection mechanisms, institutions can end or fail to renew contracts at their own will and not necessarily based on the contribution or performance of the faculty member. Although the regulatory framework recognizes the necessity of temporary appointments, it does not offer any substantial oversight

¹⁰ **Mackinnon Mackenzie & Co. Ltd. v. Audrey D’Costa**, (1988) 1 SCC 90 (defining “equal work” for pay parity).

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and accountability mechanism. Such a regulatory lapse has served to systematically exploit and professionally marginalize an increasingly large proportion of academic workforce in India¹¹.

2.2 Emphasize the same workload for contract and regular faculty but remain

vague on parity in pay and benefits: Among other things, it is one of the most important points about the UGC Regulations (2018) regarding contractual appointment that focuses on the equal workload of the regular and contractual faculty. Under the guidelines, contractual teachers should perform the same teaching duties like their permanently appointed colleagues. This consists of lecture time, mentoring of students, development of curricula and involvement in the academic programs of the institution. Even in appointment, contractual faculty in some institutions are being given administrative positions or obligated to supervise co-curricular activities a sure sign of functional equivalence in responsibility¹².

The reasoning here is to avoid a situation where the quality of education will be compromised by virtue of the appointment process particularly in cases where contractual faculty are employed to teach immediate teaching requirements. The rules are however, not enough to establish equality in salaries, allowances and service benefits. The words used in the guidelines are seen to be very lax on the matter of remuneration and social security. The regulations encourage contractual faculty to be remunerated a sum that is reasonable, although it does not go as far as to enforce UGC pay levels or clarify the definition of reasonable.

There is therefore a tendency of universities and colleges, particularly those supported by state governments, to pay contractual teachers much less than regular faculty, even in cases where the qualifications, workload and responsibilities are identical. This creates an inherent inequity that not only demoralizes the contractual faculty but also makes serious queries as to fairness and equity in public employment¹³. The ambiguity regarding benefits such as leave days, medical insurance cover, retirement benefits and even professional development opportunities also adds to the precarity of the contractual teachers.

Lack of provisions that can be enforced poses a challenge to such teachers to enjoy parity even in instances when they are undertaking similar work. It has resulted in increasing unrest among contingent faculty and has caused protests and lawsuits in several states. This imbalance needs to be corrected with a regulatory amendment requiring equal pay for equal work, and with protection which is enforceable.

¹¹ UGC (*Minimum Qualifications...*) Regs., 2018, § 3.3.

¹² *University Grants Commission Act*, 1956, § 14.

¹³ Smriti Rao & Vamsi Vakulabharanam, *Migration, Crises and Social Transformation in India After the 1990s*, in *Wage Labour in Neoliberal India* 167 (Braj Ranjan Mani & Ajay Gudavarthy eds., Cambridge Univ. Press 2018).

2.3 Contractual employment is governed by mutual agreement under contract

law: The appointment of the contractual assistant professors is broadly regulated by the Indian Contract Act, 1872 under the Indian law. This law forms the legal foundation of agreement between parties in that a contract becomes valid when there exists a mutual agreement, legal consideration and the subject of the contract is not prohibited by the law. The appointment and acceptance by the appointee is a valid contract in the employment context especially in academia. The terms and conditions as stipulated in the appointment letter or Memorandum of Understanding (MoU) are very essential in establishing the nature of the contractual relationship. These records specify the term of the employment, the responsibilities, compensation, reasons of termination as well as the chances (where applicable) of renewal¹⁴. Nevertheless, these employment contracts, although they are legally binding contracts, are seldom negotiated. Most institutions produce standardized contracts in which terms are pre-set and faculty members possess no or little bargaining power. To that end, they will usually be favorable to the employer, such as to include provisions of unilateral termination or non-renewal without justification being required.

These clauses might be legally enforceable as per the contract law but are highly unethical and unfair. This unevenness of bargaining power between the employee and the institution is usually exploitative. In addition, the contract law does not provide many remedies to the contractual faculty. Once breached, the faculty member could demand damages or compensation by civil litigation, however, reinstatement or service continuation is seldom allowed unless stated in the contract. It is therefore a system of law that upholds procedure legality at the expense of substantive justice. Faculty have little leverage to challenge arbitrarily or discriminatively adopted employment decisions due to the sole dependency on purely contractual relationships, rather than statutory protection. There is a need to have a more balanced legal regime which integrates ideas of fairness, equality and rights protection into contractual employment in academia¹⁵.

2.4 Legal enforceability depends on terms of appointment letter or MoU: The rights and obligations of a contractual assistant professor are legally enforceable mostly depending on the language and clauses that are set-forth in the appointment letter or Memorandum of Understanding (MoU). Such documents qualify as a

¹⁴ Richard Mitchell, Petra Mahy & Peter G. Gahan, *The Evolution of Labour Law in India: An Overview and Commentary on Regulatory Objectives and Development*, 1(2) **SSRN Elec. J.** 1 (2013), <https://doi.org/10.2139/ssrn.2297160>.

¹⁵ Pankil Goswami, *The Political Economy of Precarious Work in India: A Case of Languishing Social Policy?* Indian J. Hum. Dev. (forthcoming 2024),

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binding contract under the Indian Contract Act, 1872, when they are not forced on anyone and when there is no misrepresentation. Enforceability of the contract depends on its clarity on the aspects of the job tenure, remuneration, responsibilities, termination provisions, renewal, and all other benefits. In practice, though, such documents are frequently written to guarantee the flexibility of the institution at the expense of job security and rights of the faculty.

Most appointment letters contain provisions which allow the employer to end the contract without notice or cause frequently within a termination at will or termination without assigning cause provision. These provisions are legally acceptable but may lead to arbitrary terminations without much the faculty member can do about it. On the same note, the renewal clauses are often non-committal, indicating that the extensions are to be made at the discretion of the competent authority, making the faculty members live in suspense despite having served a complete term of satisfactory service. Such ambiguity hinders long-term planning on the part of the educators and leads to work stress¹⁶. Contractual faculty can seek civil courts in case of a disagreement on ground of breach of contract. The remedies of the courts are normally limited to compensation or damages though they are not readily inclined to order specific performance (i.e., reinstatement) unless the stipulations of the contract are blatantly breached in bad faith. This narrow avenue of legal redress implies that even in cases where the wronged faculty members opt not to engage in litigation formally because of time, expense and unpredictability. Therefore, although legally binding on paper, the safeguards in most appointment letters are in practice flimsy. Institutions must move to more open and fairer contractual systems which embody a real balance of rights and responsibilities.

2.5 Unclear if a contractual assistant professor falls under the workman definition under the Industrial Disputes Act:

One of the focal uncertainties relating to the legal status of the contractual assistant professors is whether they can be considered as workmen as interpreted in Section 2(s) of the Industrial Disputes Act, 1947. The Act presents the definition of a workman as an individual employed in any industry to carry out manual, unskilled, skilled, technical, operational, clerical or supervisory work, whether for hire or reward. Teaching and academic research, though, have not been conventionally viewed as being within the remit of this definition. Courts of law have usually ruled that teaching is a prestigious job that requires intellectual and creative efforts and not a job in the industries, and hence the teachers are not entitled to the benefits that other groups of employees enjoy

¹⁶ Bhadrappa Haralayya et al., *Challenge and Impact of National Education Policy 2020 on Higher Education Systems*, 14(4) **Eur. Econ. Letters** 329 (2024).

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under the Act. Due to this exclusion, contractual assistant professors cannot invoke legal protection afforded to workmen, including the right to be reinstated following an unlawful dismissal, retrenchment compensation or defense against unfair labor practices.

Such a gap in the legal certainty leaves a big gap in their capacity to enforce job security, particularly in situations in which appointments are being arbitrary cancelled or simply non-renewed without reasons¹⁷. Though petitions by academic employees have been allowed in some labor courts in the past, decisions by higher courts of justice especially by High Courts and the Supreme Court have mostly maintained the exclusion of teachers under the Industrial Disputes Act.

This legal gap makes the contractual teachers rely on the contents of the contract of appointment instead of having any legal protection. According to the growing trend of temporary appointment in the public educational system, the law must immediately be changed either to specifically incorporate the teaching professionals within the sections of applicable labor legislation or to establish a new type of statutory coverage suitable to the academic occupation. Up to that time, contractual assistant professors will remain to be in a fragile situation with few opportunities to claim employment injustice¹⁸.

2.6 Limited access to remedies like reinstatement or compensation in case of termination: Contractual assistant professors usually have a hard time pursuing their grievances such as reinstatement or payment through legal and institutional processes after being terminated. Since their employment is not covered by any statutory service regulations or labor law protection but by the contract law, their legal actions are restrained to the particular stipulations mentioned in the appointment letter or MoU. Contractual faculty have few institutional protections such as permanent government employees that can appeal to administrative tribunals or can rely on the principles of natural justice enshrined in service jurisprudence.

The internal grievance redressal mechanisms usually do not apply to them and the external recourses such as writ petitions or civil suits are seldom effective and fast. Contractual faculty have few options in the event of non-renewal or early termination, unless that termination action obviously contravenes something in

¹⁷ *Equal Remuneration Act*, 1976, §§ 4–5

¹⁸ *Industrial Disputes Act*, 1947, § 2(s)

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their contract¹⁹. Courts have repeatedly stated that they are not able to order institutions to renew a contractual employee whose term has expired, except in case of a constitutional rights violation, namely, discrimination or denial of equality. They will not readily interfere with academic freedom and the discretionary rights of institutional decisions even in a situation where the dismissal seems to be unfair. This is especially hectic in state universities where professors can be ousted without cause, even when they are performing academic duties. Remedy of compensation is also limited. Courts can compensate minimal damages unless the contract clearly entitles the employees to receive severance pay or termination compensation. Contractual teachers are usually discouraged by the financial implication, technicality of the process, and the emotional stress of going to court to obtain justice. Moreover, they do not have the structure of representation that can include unions or faculty associations that have the power to bargain, which only makes their position weaker. Contractual assistant professors will continue to be an unprotected and disrespected aspect of the academic workforce without particular legislative or judicial acknowledgment of their special employment condition²⁰.

3. IMPLICATIONS OF CONTRACTUAL EMPLOYMENT

3.1 Academic Consequences: There is a serious academic ramification to contractual employment particularly in the institutions of higher learning where stability and continuity are crucial to quality teaching and research. This is caused by the temporary condition of appointment, which is frequently renewed, usually on a six-monthly to yearly basis, which generates an atmosphere of instability that discourages faculty investment in long-term academic aspirations. Contract assistant professors would hardly dare to carry out large-scale research or curriculum development projects, as they may well be afraid their contract will not be renewed. The effect of this is an absence of scholarly continuity and it suffocates intellectual innovation. Moreover, short-term employment interferes with teacher-student relationships, especially in post graduate programs where mentorship and research directions are very important. The high turnover of faculty may hurt the students as they will receive uneven supervision and guidance. This has a direct effect on the institutional academic reputation and does not conform to the quality standards required in the national education policies. Also, working conditions may be insecure and cause the appearance of a great level of stress, so there will be hardly any emotional or intellectual strength left to contribute to academia. As such,

¹⁹ Predictive analytics for faculty retention: *Contractual Faculty Future Retention Rate*, ResearchGate (Apr. 2022)

²⁰ Code on Wages, 2019, § (Repeal of Equal Remuneration Act).

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the system inadvertently places the administrative flexibility above pedagogical depth and it is a loss to both the teachers and the students²¹.

3.2 Professional Equality: Contractual assistant professors experience institutional professional inequality which demoralizes them and destabilizes institutional cohesions. Although their qualifications and responsibilities are equal to their permanent colleagues, they are frequently underpaid considerably and are not allowed access to research grants and professional development, as well as administration. Such a gap creates resentment and leads to an unhealthy work culture where teamwork is undermined by status differences. This inequality is further enshrined by the absence of equality in benefits including housing allowances, medical benefits and leaves. Contractual faculty can also be marginalized in the faculty meetings or decision-making processes, silencing their influence in the running of the institution.

In the long term, this institutional rejection results in the gap in classes between academia, deterring brilliance and retention among the young and competent scholars. This causes brain drain in the public institutions as many promising scholars are forced to pursue opportunities elsewhere either internationally or within the private sector. Thus, the professional hierarchical nature of the contemporary contractual systems conflicts with the aims of inclusivity and meritocracy, which the Indian system of higher education aims to realize²².

3.3 Lack of Grievance Mechanism: One burning issue that the contractual assistant professors face is the unavailability or inaccessibility of the efficient grievance redressal system. Most of the public institutions do have Internal Complaints Committees and grievance cells, but they are usually structured to handle the problems of the permanent employees, and temporary faculty members are left without any institution to appeal to. This makes the contractual faculty extremely susceptible to administrative abuse such as arbitrary non-renewals, verbal harassment, and withholding what they are rightfully entitled to. Most of them fear raising issues or launching complaints because they might get punished or their contracts cancelled.

Such structural alienation in the grievance systems not only undermines the procedural fairness envisaged in Article 14 of the Constitution, but also results in an imbalance of power between the administration and teaching staff. The

²¹ Pollock & Mulla, *Indian Contract & Specific Relief Act* (15th ed. 2017)

²² Pallavi Gupta & Satyanarayan Kothe, *Interpreting the Caste-Based Earning Gaps in the Indian Labour Market*, arXiv (Oct. 13, 2021)

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vulnerability further deters the faculty members to not report unethical practices, which impacts institutional integrity. Formal representation of contractual teachers in grievance committees and provision of confidentiality and procedural fairness in hearing their grievances is very important in creating a just and transparent institutional atmosphere²³.

3.4 Exploitation Risk: There is a lot of exploitation that comes out of contractual employment in the academic world. In the absence of job security and or legal representation, the contractual assistant professors are most of the time accused of shouldering more workload than what they are supposed to shoulder by the virtue of their contract. They can be requested to teach extra classes, administer exams, or assume administrative duties without any extra remunerations. As there are no solid legal protections supporting these roles, the result of failure to comply may be non-renewal or stagnation in the career. Moreover, several institutions are faced with a scramble of permanent faculty, and thus they depend more on contractual staff to fulfill their teaching needs. This excessive reliance results in the structurally exploitative ecosystem in which the economic vulnerability is used to demand additional labor. Lack of formal job descriptions coupled with nebulous performance measurements place administration with skewed power over the academic destiny of the faculty. This devalues academic work, contravening the ethos of Article 21 of the Constitution, which provides the right to live with dignity. Therefore, the exploitation does not only remain an operational matter, but a profound legal and moral problem within the contractual teaching of India²⁴.

4. POLICY GAPS

4.1 Inconsistent Hiring Practices: Various gaps in hiring procedures across states and institutions can be considered one of the most urgent problems in contractual academic employment. Though the University Grants Commission (UGC) provides model guidelines, their implementation is highly inconsistent with each state government and university interpreting the model guidelines differently. This

²³ Haydar Evren & Manshu Khanna, “Affirmative Action’s Cumulative Fractional Assignments,” 2021 arXiv (Central Educational Institutions (Reservation in Teachers’ Cadre) Act, 2019)

²⁴ AMU Registrar’s Memo on UGC Regulations, 2019.

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has led to a patchwork of policies, some strong, some arbitrary, that determines the appointment, tenure and compensation of contractual faculty. Give an example, whereas in some universities, advertisement of a position is done openly and interviews carried out, ad-hoc appointments are made in some universities without following the due process. Absence of common eligibility norms, salary structure or tenure guidelines corrupts merit-based hiring and invites nepotism and corruption. The same lack of uniformity applies to faculty mobility and career development because service performed in an institution does not necessarily count in another. As a result, there are a number of very good people who are stagnating in temporary positions and do not know how to get ahead. The independence of institutions in the absence of a central directive on policy issues is a sanctuary of non-compliance and disparity. There is an urgent need to have a strong national system that can bring in uniformity, transparency and accountability in contractual appointments in India²⁵.

4.2 No Career Pathway: The lack of a systematic career track of the contractual assistant professors also constitutes another important policy vacuum. Even in most institutions, contractual appointments are taken as stop-gap measures, which do not have any chance of professional development and absorption into permanency. This is not only an individual or personal problem but also the problem of the system because it leads to a lack of long-term investment and commitment to academic pursuits. Most young scholars get into these positions hoping to get tenured only to be stuck in renewable term contracts without any promotion mechanism that does not involve evaluation. Institutional retention of talent is crippled by the lack of a tenure-track or probation-to-confirmation system like that existing in western academia. This has an impact on gender equity as well because women faculty members tend to experience multiplied barriers without an offer of stable, long-term employment. The absence of a career development system demotivates even the most devoted teachers and results in a factual revolving door, which destabilizes faculty planning and quality. A clearly defined and fair promotional route of the contractual faculty not only would improve the level of academics but also would make higher education an appealing career choice²⁶.

4.3 Low Bargaining Power: The bargaining power of contractual assistant professors is also too low because they are not included in the formal labor collectives. Unions representing the faculty (which in most cases consider only the permanent

²⁵ Decoding Recruitment & Academic Score for Temporary Teachers as per UGC Faculty Regulations,” SkillOutlook (2019)

²⁶ UGC (Minimum Qualifications for Appointment of Teachers ...) Regs., 2018 (No. F.1-2/2017).

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employees) may not cover temporary or contractual teachers in their membership or collective bargaining. This omission gives contractual faculty no common vehicle to press for higher pay, working conditions or legal rights. Their non-unionization further appeals to their weakness and exposes them to administrative excess. Moreover, due to the vulnerable status, several contractual teachers decline to engage in protests or decision making in institutions since they fear non-renewal. This greatly impairs their freedom of speech and freedom of profession. Without a powerful voice of the collective, the concerns particular to contractual teachers are not brought up in policy debate. To address this, unions and professional organizations should transform to include all types of faculty. It is possible to safeguard the rights and dignity of contractual assistant professors by including them in the general discussion of academic labor rights through inclusive bargaining mechanisms²⁷.

5. RECOMMENDATIONS:

5.1 Standardized National Guidelines: To solve the inequities and insecurities experienced by contractual assistant professors, UGC and the Ministry of Education should provide obligatory national directives to set standardized norms regarding recruitment, salaries, benefits, and safeguarding of service. Such guidelines must stipulate equality in workload, remuneration scales according to qualification and experience as well as annual appraisal provisions. In addition, they must incorporate laws on transparent recruitment, minimum period of contract and uniformity on notice on termination. It should be mandatory on the institutions to file periodical compliance reports with the UGC and failure to which there should be a penalty or funding implication. The process of standardization will minimize arbitrariness, as well as lead to the fair treatment of faculty members across states. It will also increase credibility of the institutions and better the education quality by discouraging faculty turnover. These guidelines would ideally be drawn up with all the stakeholders consulted, the faculty unions, the administrators and the legal experts. The national government needs to assume responsibility in monitoring the implementation to make sure that the constitutional values of equality and fairness are being observed in the entire public education system in India²⁸.

²⁷ UGC Regs. 2018 Appendices I–III (Pay scales, CAS policies).

²⁸ Delhi Teachers' Univ. Screening Criteria vs. UGC Regs.

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5.2 Tenure Track System: Implementation of a well-organized tenure-track system is vital in creating a balance between job security and academic performance. A contractual position may be initially fixed at 3-5 years where the faculty member is regularly reviewed after every term on the basis of teaching, research, and service. On successful completion, he or she should qualify to be confirmed into a permanent employment. Such a model would make sure that only effective teachers would be retained as well as bringing stability and inspiration to young scholars. Clear assessment rubric, with peer reviews, student voices and research performance would facilitate the importance of accountability and merit-based advancement²⁹. Tenure-track systems have been demonstrated to work effectively in a number of academic centers world over because of the balance it brings between short-term flexibility and long-term academic perspective. Such a system can be applicable in the Indian universities to attract talents globally and minimize brain drain. Notably, the process of evaluation should be free of administration bias, politics and should demonstrate fairness and professional integrity. Implementation of the tenure track system nationally would change the adjunct-driven temporary teaching pool into a strong, next-generation academic labor force.

5.3 Equal Pay for Equal Work Enforcement: The implementation of the principle of equal pay to equal work is still lacking in higher education in spite of the constitutional provisions and judicial declarations. The institutions should be required to implement internal audit to compare remunerations and responsibilities of various types of employment. In case the contractual faculty is rendering identical academic and administrative service as done by the permanent employees, then equal pay should be given to them with provision of grants, medical insurance and other perks. The UGC should put in place monitoring mechanisms and make transparency in terms of employment a pre-condition. Also, the violation of this principle should be treated as violations that can be actionable by courts based on Article 14 and Article 39(d) of the Constitution. The introduction of equal pay standards would not merely reinstate the demoralized temporary faculty but would also guarantee India of meeting its international labor commitments. The alignment of the employment policies with the constitutional values can transform the education sector into an example of labor justice and institutional integrity³⁰.

5.4 Legal Recourse and Grievance Cells: It must be made mandatory by law that every university and college must have specific grievance redressal cells which would address the issues of the contractual faculty in particular. These committees

²⁹ State of A.P. v. G Sreenivasa Rao, (1992) 3 SCC 677 (equal pay means similar roles)

³⁰ State of M.P. v. Pramod Baratiya, (1994) 3 SCC 589 (similar skills, effort)

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should have elected members of the contractual teaching staff and they should be independent of administration. They must feel free to deal with matters of non-renewal, workload inequities, discrimination and harassment. Along with this, legal literacy programs need to be undertaken to create awareness among the contractual teachers on their right as per the labor laws, as well as the protection accorded to them by the constitution. It should also be mandatory on the institutions to provide contractual faculty with elaborate appointment letters indicating rights and responsibilities. Access to legal redress should also be affordable and easily accessed with even quicker means of handling disputes. Grievance redressal cannot be a formality in exercise of compliance- it has to be strong, democratic and enforceable to overcome the asymmetry of power in contractual employment³¹.

5.5 Regular Judicial Oversight: Court supervision is necessary so that the legal and constitutional rights of contractual assistant professors can be observed. Supervisory structures should be evolved by the High Courts and the Supreme Court to include regular reviews of employment guidelines in state-funded universities and provision of guidelines to define fair recruitment and regularization of service. Suo motu cognizance of exploitative practices and public interest litigations (PILs) may be promoted so that systemic violations are highlighted. The courts also need to have consistency in application of decisions regarding equal pay, fair procedures and dignity at work. A special court like Lok Adalat or educational tribunal can be developed as a judicial monitoring mechanism to monitor disputes related to academic employment. This would avert protracted cases and provide faster solutions to injured faculty. An active court system in collaboration with the regulatory councils can make a formidable alliance in changing the employment scenario in the Indian academia³².

CONCLUSIONS:

The growth of contractual assistant professors in the higher education of India is an indication of moves towards cost-effectiveness as against equity, quality, and institutional integrity. Although these teachers constitute the spinal cord of most of these universities, they are undervalued, underpaid, and unprotected, given that they equally participate in both academic and administrative operations. The legislative infrastructure that guides

³¹ Contract Enforcement and Ease of Doing Business in India, (*Sept. 2021*), NLSIU Ctr. for Economic & Social Studies (CES)

³² State of Haryana v. Surinder Kumar, (*1997*) 3 SCC 633 (expanding doctrine of equal work).

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their employment is scattered, having unclear UGC guidelines, unreliable institutional guidelines and a weak judicial control.

The strong remedies of constitutional protection offered by Article 14, 16 and 21 can be effective in correcting these injustices but have been used rarely. In the same vein, the lack of uniform policies, career ladders and collective bargaining rights places contractual faculty at the whims of institutional discretion. Unless structural change in the employment policy in academics is undertaken, the Indian dream of transforming into a global knowledge city will remain just a dream. This involves, devising tenure track systems, implementation of equal pay, grievance redressal systems which are inclusive, and judicial redress. An approach that is constitutionally informed, ethically grounded, and policy-based can close the gap that exists between the temporary and permanent faculty. Then only, India can be able to accord the respect due to its teachers and achieve academic excellence that it projects in its national education aspirations.