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After Noida DM's warning, who is responsible for the wellbeing of outsourced workers?

It is about the evolving nature of accountability in a system where employment relationships are layered, fragmented, and often deliberately distanced. In this context, ETHRWorld interacted with manpower services providers and legal experts to delve deeper into this issue.



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Highlights

- The principal employer cannot completely distance itself from problems like worker protests, wage disputes, or even instances of misconduct, under the new labour framework.
- Contractors manage workers directly, but often operate within constraints set by the principal employer budgets, timelines, and workplace policies.
- Rishi Agrawal, CEO and Co-Founder, TeamLease RegTech, frames the issue more bluntly as a long-standing "blame game."
- Perhaps most revealing is the observation on how companies manage continuity of employment of contractual workers.



This deliberate fragmentation of employment underscores the gap between legal definitions and lived realities

The recent unrest among contract workers in Noida's industrial belts has reignited a long-simmering debate at the heart of India's labour ecosystem.

That is, when outsourced workers protest, suffer, or misbehave, who is truly responsible for their wellbeing?

The immediate trigger may have been grievances over working conditions and alleged mistreatment, but the administration's warning that outsourcing agencies could face blacklisting if their workers engage in "unruly behaviour" has pushed the conversation into deeper, more structural territory.

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In this context, ETHRWorld interacted with manpower services providers and legal experts to delve deeper into this issue.

Monitoring worker wellbeing

At the core of this issue lies a tension between legal theory and operational reality.

Vineet Toshniwal, President, SIS, pointed to a significant shift in the legal framework. “The new labour code says that both the service provider and the principal employer are ‘jointly and severally’ responsible for contract workers,” he said.

This concept of shared liability is meant to close long-standing loopholes. In earlier regimes, principal employers often insulated themselves from disputes by relying on contractual boundaries. But under the new framework, Toshniwal emphasized, “the main employer cannot completely distance itself from problems like worker protests, wage disputes, or even instances of misconduct.”

Gap between legal responsibility and operational control

Even as the law draws a neat circle of responsibility, the ground reality remains far messier.

“There is still a clear gap between legal responsibility and operational control. While the law assigns shared accountability, the day-to-day supervision, engagement, and immediate control over contract workers typically lie with the contractor,” Toshniwal said.

This asymmetry creates friction. Contractors manage workers directly, but often operate within constraints set by the principal employer budgets, timelines and workplace policies.

Meanwhile, the principal employer holds overarching responsibility but lacks granular control. The results are weak enforcement, and situations where accountability is not clear in practice even though it is clearly defined in law.

Rishi Agrawal, CEO and Co-Founder, TeamLease RegTech, framed the issue more bluntly as a long-standing "blame game."

"When issues like unpaid bonuses or poor working conditions surface, contractors often point to the company, while the company hides behind the fine print of its contract," he said.
But under the Occupational Safety, Health and Working Conditions Code, 2020, "this finger-pointing no longer holds legal weight because accountability is now a shared joint venture," Agrawal added.

Agrawal outlined the new labour code's attempts to structurally eliminate ambiguity. The contractor is the direct employer responsible for day-to-day management but the Principal Employer serves as the ultimate legal safety net.

For instance, the responsibility for basic facilities such as clean drinking water, toilets, canteens and crèches rests firmly with the principal employer when workers are deployed on its premises, Agrawal said.
On wages, the structure is equally stringent. "The contractor is primarily responsible for ensuring workers are paid by the 7th day of the following month. However, if the contractor fails, the Principal Employer must step in and pay the workers in full," Agrawal said.

Legal opinion

Legal experts, however, caution that accountability is not always as neatly shared in practice, especially when it comes to worker conduct and protests.

Ashwini Kumar, Advocate and Founder, My Legal Expert, takes a more individual-centric view on misconduct.

"The worker himself is responsible for any misconduct carried out by him. From a contractual standpoint, most such workers are not employees of the principal company, and their engagement is typically fixed-term," Kumar said.

At the same time, Kumar acknowledged the company's role in managing unrest. The management of the company is responsible to ensure that protests by contract workers pertaining to working conditions are resolved at the earliest.

But the remedies available to companies often lean toward termination rather than resolution. “In a real-world scenario, a company will terminate their contracts for any misconduct or protests. There are usually no notices to be given in such cases,” Kumar added.

This raises a troubling disparity between contract and regular workers.

“Even the existing labour codes and laws do not address the termination of contractual workers and they do not get the same treatment as regular employees,” Kumar pointed out.

He also highlighted structural issues that often drive protests in the first place.

Unlike permanent employees, contractual workers operate within rigid compensation frameworks. “The base pay remains unchanged for years, with only limited incentives tied to performance. Unlike a regular employee who expects an annual appraisal; contract workers do not get any such benefits,” Kumar said.

Perhaps most revealing is his observation on how companies manage employment continuity.

“On paper, a contract worker is deemed to be an employee if working for a considerable period of time continuously. However, on ground, these companies give a gap of 1-2 months which shows that there is no continuity,” Kumar said.

This deliberate fragmentation of employment underscores the gap between legal definitions and lived realities.

Vaibhav Bhardwaj, Partner, Khaitan & Co, reiterated that responsibility of contractual employees is inherently shared.

He said the contractor is the immediate employer and is primarily responsible for recruitment, supervision, discipline and day-to-day conduct of the workers. Therefore, issues of misconduct or unruly behaviour are “in the first instance” the contractor’s responsibility.

However, Bhardwaj is clear that this does not absolve the principal employer. “The principal employer remains responsible in law because the workers are deployed within their establishment,” he said.

On the question of the gap between law and reality, Bhardwaj echoed a familiar theme. There is often a gap between legal responsibility and actual control.

Way forward

The contractor may be legally responsible for labour management, but the principal employer controls the workplace environment, systems and production requirements. This creates a situation of mutual dependence.

Ultimately, this interdependence makes rigid attribution of responsibility impractical. Responsibility tends to operate in a joint and coordinated manner rather than in strict isolation.

The Noida protests, then, are not just an isolated flashpoint. They are a reflection of deeper structural contradictions within India's contract labour system. The law is increasingly clear in assigning shared accountability, but the operational ecosystem fragmented, cost-driven and layered often resists that clarity.