



# The Indian Journal for Research in Law and Management

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## DO LABOR LAWS SUPPORT THE INTERNSHIP CULTURE IN INDIA?

Interns are students who are currently pursuing their degrees but are interested in gaining new skills and practical knowledge. Professional degrees such as the Bachelor of Law, Bachelor of Chartered Accountancy, Bachelor of Medicine, Bachelor of Surgery, and Company Secretary prescribe mandatory apprenticeships, traineeships, or internships of specific duration in order to be awarded the related degrees as internships aid in preparing students for careers in the professional world or white-collar jobs. For instance, According to Bar Council of India Rule 25<sup>1</sup>, registered law students must complete an internship for a minimum of 12 weeks for a three-year course and 20 weeks for an integrated five-year course. Rules like this has compelled many students to intern yet; In India, there are no laws that even define the term "interns" or protect the rights of a significant number of interns which has resulted in frequent mental, physical and sexual exploitation of interns.

The "Six Factors" test is used in the USA, and the Employer-Employee Relationship model is used in South Africa to guarantee that interns have certain privileges and duties. Unlike India, the United Kingdom, Canada, and other nations do not allow unpaid internships. Interns don't fall under the ambit of acts like the Minimum Wages Act 1948 makes no mention of interns, so employers are not required to pay interns the minimum wage for the labour they perform on behalf of the organization. The Employee's Compensation Act, 1923; the Industrial Disputes Act, 1947, Payment of Wages Act, 1936 or the Payment of Bonus Act, 1964, which makes them vulnerable to economical exploitation and are expected to work for free for long hours without a stipend too, if a stipend is provided it is not enough to even cover the minimum expenses like travel, lodging or food. It's a never-ending vicious cycle that gives well-off students access to opportunities that most others can't afford, where students already take student loans to pay the heavy admission fees for the college; they simply cannot afford to work without a stipend. Additionally, they are made to work for long and unfixed working

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<sup>1</sup> Bar council of India, Rule 25, <https://www.barcouncilofindia.org/info/bci-rules>.

hours including holidays. In accordance with The Factories Act of 1948 mandates 9 hours per day and 48 hours on a weekly basis, whereas The Apprenticeship Act of 1961, an employee's weekly working hours are limited to 42 hours. Apprenticeship Act of 1961 defines the concept of apprenticeship which is similar to interns, but the act only protects certified medical practitioners, professional training, and engineering students.<sup>2</sup> Interns are not covered under the Industrial Employment (Standing Order) Act of 1946, which outlines hiring procedures, job responsibilities, disciplinary measures, set holidays, and leave benefits for industrial firms employing 100 or more workers or apprentices.

**MD Imran Ahmad v. Union of India**<sup>3</sup> In order to qualify for legal protection under the Apprentices Act of 1961, interns were to be counted as trainees according to the petition. However, the plea was dismissed by the SC on January 6. The petitioner argues that internship providers are forcing interns to work beyond their fixed hours, violating their health and constitutional rights including Article 21 and 23. They claim they are replacing normal employees and are not paid a stipend, violating Article 14 of the Indian Constitution. The petition also calls for considering domestic internships in parity with the Fair Labour Standards Act, 1938 of USA.<sup>4</sup>

The offer letter makes it clear that there is no employment-employer relationship between the company and the intern. They don't identify any other relationship, but by signing an offer letter, they legally bound an intern. The majority of unregistered start-ups in major cities are just recruiting interns. It implies that interns are not eligible for any perks or rights that are available to employees. It is unfair for businesses to make interns perform essential revenue-generating tasks that are meant to be done by the employee and still not get proper compensation in return. Many judges and advocates accept responsibility and give interns the credit they deserve for their intellectual contributions to the work, but there have been several cases where an article, draft, legal opinion, or other intellectual work of an intern has been published under the name of the law firm, advocate, or institution that the law student is interning under without acknowledging the true author of the work. These situations necessitate

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<sup>2</sup> Nidhi Mishra, Empowering Interns: The Call for Legislation and Rights in India's Professional Landscape, (22<sup>nd</sup> February 2024, 9:39 AM) <https://www.abhidhvajlawjournal.com/empowering-interns-the-call-for-legislation-and-rights-in-indias-professional-landscape/>.

<sup>3</sup> MD Imran Ahmad v. Union of India W.P.(C) No. 000057 / 2023.

<sup>4</sup> Lavanya Ambalkar, Addressing The Need Of Intern And Trainee Protection Labour Laws In India, (22<sup>nd</sup> February 2024, 10:53 AM) <https://www.legalserviceindia.com/legal/article-11763-addressing-the-need-of-intern-and-trainee-protection-labour-laws-in-india.html>.

the creation of a unique statute that acknowledges a legal intern's intellectual property rights in order to give her the credit the intern is due.<sup>5</sup>

A law addressing the abuse of interns has been overdue and should cover issues including safe workplaces and flexible work schedules, monetary allowance, safeguarding of intellectual property rights, the relationship between the employer and interns, and whether or not interns are considered employees.

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<sup>5</sup> Oindrila Mukherjee, Not just an intern! time for intern protection laws in India, (23<sup>rd</sup> February 2024, 9:35 AM) <https://blog.iplayers.in/not-just-an-intern-time-for-intern-protection-laws-in-india/>.