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**An Article on**

UNEMPLOYMENT and Underemployment LAW in India and U.S.A.

BY

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(LAUNCH: 1.1.2018),

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**What is Employment Law?**

Employment law governs the rights and duties between employers and workers. Also referred to as labor law, these rules are primarily designed to keep workers safe and make sure they are treated fairly, although laws are in place to protect employers’ interests as well. Employment laws are based on federal and state constitutions, legislation, administrative rules, and court opinions. A particular employment relationship may also be governed by contract.   
 Wage and hour laws also regulate overtime pay. The federal government does not place limits on the number of hours adults may work per week, but after 40 hours time and a half must be paid. Rules exist to control the hours and working conditions for workers under age 18, with special provisions for those working in the agricultural sector. In addition, these laws require employers to post notices and keep basic payroll records.

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The most common exceptions involve matters of public policy. For example, employers cannot fire workers for discriminatory reasons. Likewise, they cannot fire an employee in retaliation for filing a worker’s compensation claim, or for disclosing a violation of law to the authorities (whistle blowing). A minority of states also prohibit employers from terminating employees in bad faith, such as firing a worker to avoid paying a bonus or other benefit.

As mentioned, employers and workers may enter into employment contracts. Such contracts can describe the length of employment, compensation, disciplinary procedures, reasons for termination, and so forth. As long as the contract is otherwise legal, it will be enforced in lieu of the at will doctrine. Moreover, contract terms can be created by implication, based on oral assurances and other conduct, even in the absence of a written document.   
 In cases involving an employment contract, courts are often called upon to interpret the meaning of specific clauses. Promises not to compete are one example. These clauses prevent former employees from engaging in the same trade in the same market or geographical area. Restrictions against disclosing trade secrets are another example. Employment attorneys routinely litigate these types of issues.   
 A number of other workplace matters can arise in employment law cases. This has led attorneys who restrict their practices to labor law to further specialize in areas such as unemployment insurance claims, worker’s compensation, sexual harassment, and compliance issues involving the Occupational Safety and Health Administration (OSHA). For those involved in an employment dispute, finding an attorney with the right training can make all the difference.   
 Know Your Employment Rights!

* [Are Couples Entitled to Share Employment Benefits?](https://www.hg.org/article.asp?id=31763)

Traditionally, one benefit of marriage was being able to share in a spouse's employment benefits, like health, vision, and dental insurance. Unfortunately, many same-sex couples have struggled for years to receive the same level of benefits and even the right to be married. With more and more jurisdictions recognizing same-sex marriages, are employers now required to provide same-sex couples with the same level of benefits as heterosexual couples?

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* [Are Sexual Harassment Investigations Confidential?](https://www.hg.org/article.asp?id=31518)

An all too common occurrence in the modern workplace is the sexual harassment. This can take many forms, like unwelcome sexual or romantic advances, sexual blackmail, offensive touching, discussions of intimate activities that make others uncomfortable, etc. While there are a number of laws to protect those who complain of such activities, what of those who are accused, particularly if the sexual harassment claim is determined to be unfounded or used as a means of embarrassment or retaliation?

* [Can You Fire Someone For Their Social Media Complaints About Work?](https://www.hg.org/article.asp?id=31743)

Social media is everywhere today; from Facebook to Twitter to LinkedIn, it would be almost impossible for an employer not to have someone working for them that has some form of social media presence. While you might be able to keep an employee from updating their Facebook status from the office, can you do anything about what they say or do about you or your company on their social media in their own time? Indeed, can you fire someone for their social media complaints about work?

[Habitually Absent, Tardy, or Sick? How to Deal with Employees Who Are Not Coming to Work](https://www.hg.org/article.asp?id=31093)

Do you have a trouble employee that can never seem to make it to work when they are supposed to? Either they are always late or they are not there at all? How should you go about disciplining this employee, particularly if you have let it slide in the past? Is there any risk to firing someone for claiming too much sick time (even if they are entitled to those days under the terms of their employment)?

* [How to Deal with Sexual Harassment in the Workplace](https://www.hg.org/article.asp?id=30958)

Sexual harassment is usually defined by Courts and employers using the definition of sexual harassment contained in the guidelines of the U.S. Equal Employment Opportunity Commission (EEOC). This language has also formed the basis for most state laws prohibiting sexual harassment.

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* [My Employer Didn't Pay Me, Now What?](https://www.hg.org/article.asp?id=30940)

Employment law can be confusing and it can be difficult to learn what your rights are and what you are entitled to. When an employer does not pay for something (whether regular wages, overtime, tip splitting, reimbursements, or something else) it can be very frightening and confusing. Is the employer right? Should I even bother fighting?

* [What Are America's Minimum Wage Laws?](https://www.hg.org/article.asp?id=31731)

The United States has statutory minimum wage laws intended to ensure that even the least skilled of workers are able to earn enough money on which to live. As of July 2009, the federal minimum wage was set to $7.25 per hour, which equates to weekly earnings of just $290 per week (before taxes) for a full time job. However, many feel this number has not kept up with inflation and that this number is no longer a livable figure.

* [What Do I Need to Know About A Non-Compete Agreement?](https://www.hg.org/article.asp?id=31596)

Many have been asked to sign non-compete agreements or thought they might be a good idea to protect their business interests when hiring someone. But, what do they do? How are they enforced? What legal requirements do they have to follow?

**US unemployment rate unexpectedly rose to 4.4 percent in August 2017 from 4.3 percent in the previous month and above market consensus of 4.3 percent. The number of unemployed persons increased by 151 thousand to 7.1 million while the labor force participation rate was flat at 62.9 percent. Unemployment Rate in the United States averaged 5.80 percent from 1948 until 2017, reaching an all time high of 10.80 percent in November of 1982.**

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