NAVIGATING LEGAL COMPLEXITIES: A COMPREHENSIVE ANALYSIS OF STRIKES IN LABOUR LAW

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ABSTRACT

This paper presents a thorough examination of strikes within the framework of Labour law, shedding light on their definition and legal implications. As integral components of industrial relations, strikes are scrutinized from a legal perspective to illuminate their complexities and significance in contemporary Labour contexts.

The study initiates by defining strikes within the ambit of Labour law, scrutinizing diverse legal definitions and classifications prevalent across jurisdictions. Furthermore, the paper navigates through the legal landscape governing strikes, emphasizing pertinent statutes, regulations, and judicial precedents. It underscores key provisions of Labour legislation, including the Industrial Disputes Act, 1947, and the Trade Union Act, 1926.

Moreover, the analysis extends to examining the multifaceted impact of strikes on employers, employees, government entities, and the general public. Additionally, the study explores the intersection of strikes with constitutional principles, elucidating their implications within the constitutional framework. It examines how strikes interact with fundamental rights, governmental duties, and the rule of law, thereby providing a comprehensive understanding of their legal and constitutional dimensions.

In conclusion, this paper offers valuable insights into the intricate dynamics of strikes in Labour law, addressing their multifaceted implications and underscoring their relevance in contemporary Labour environments.

Keywords: Strikes, Labour Law, Industrial Relations, Legal Implications, Constitutional Framework.

INTRODUCTION

"O Lord Almighty, bestow on me The privilege of enjoying the wealth Earned by honest, hard labour".....Rig Veda 8.4.17

India, with its rich traditions, has captivated the attention of the global community since ancient times, dating back to before 6000 B.C. The concept of kingship, ordained with the duty of protecting subjects as the ultimate 'Dharma' and citizens obligated to wholeheartedly obey their rulers, underscores India's historical socio-political landscape. In Vedic scriptures, great importance was placed on the king's responsibility to safeguard the public interest, paralleled by the duty of subjects to adhere to royal decrees.

Throughout history, India's standing among nations has been significantly influenced by its industrial endeavours, which have varied in meaning over time. Workers form the backbone of economic development, necessitating the provision of basic necessities, while employers seek assurance that their rights are protected from political manipulation. The topic of strikes has become increasingly significant, prompting varied judicial responses and raising questions about its legality and necessity.

The evolution of strikes, from labour withdrawal to diversified forms of protest, reflects changing societal dynamics. Understanding the origins and causes of strikes is essential in assessing their contemporary relevance and exploring potential modifications to their form. Furthermore, the impact of global changes on labour activism requires thorough investigation.

In examining the legal, moral, and sociological dimensions of strikes, it becomes apparent that the activity serves as a fundamental expression of protest, sometimes challenging established norms and leading to societal advancements. However, the legality and consequences of strikes, especially in the context of globalization and evolving economic policies, warrant careful consideration.

India's industrialization, catalyzed by British colonialism, reshaped societal structures and triggered labour activism. The struggle for workers' rights, spearheaded by social reformers and freedom fighters, culminated in the establishment of trade unions and the assertion of the right to strike. Understanding the causes of strikes, including grievances related to wages, working conditions, and employment insecurity, is crucial for conflict resolution.

Globalization has introduced new challenges, pushing workers to adapt while also exacerbating industrial unrest. The proliferation of trade unions, coupled with political influences, has led to inter-union rivalries and compromised leadership. The consequences of strikes extend beyond employers and employees, impacting government functioning and societal stability.

Constitutional provisions regarding the right to strike necessitate balancing individual liberties with societal interests, particularly in critical sectors like defence and public services. Statutory regulations, such as the Trade Union Act and the Essential Services Maintenance Act, seek to mitigate the disruptive effects of strikes on essential services.

Judicial decisions have shaped the trajectory of labour activism, with courts increasingly scrutinizing the legality of strikes and imposing restrictions to safeguard public interests. However, criticisms of judicial leniency and political interference underscore the complex dynamics surrounding labour disputes.

Ultimately, a comprehensive understanding of the multifaceted nature of strikes is essential for effective policymaking and conflict resolution. By analyzing historical precedents, legal frameworks, and societal impacts, stakeholders can navigate the evolving landscape of labour relations in India.

MEANING AND DEFINITION OF “STRIKE”

The interpretation of a term may vary among individuals depending on their circumstances and needs. To establish an authoritative definition, legislative bodies often provide precise definitions within their statutes. Similarly, the term "Strike" was formally defined by the legislature in The Industrial Disputes Act, 1947. However, prior to this enactment, various authors and judicial authorities had offered their interpretations of the term 'strike'. Therefore, this section delves into the definitions of 'strike' provided by different authors and the specific definition outlined in Section 2(q) of the aforementioned Act.

GENERAL DEFINITION OF STRIKE

The term ‘strike’ finds its etymological roots in Old English, stemming from the word “strican,” with linguistic connections to Old High German and Latin. It conveys the act of withholding one's Labour—a fundamental human freedom—often employed by workers

collectively to exert economic pressure on employers, compelling concessions. While Section 13 of the National Labour Relations Act grants private sector unionized workers a legal right to strike, debates persist over its moral justification.

Numerous efforts have been made to delineate the concept of 'strike'. Lord Denning characterizes it as a "concerted stoppage of work by workers aimed at improving wages or conditions, addressing grievances, or expressing solidarity with other workers." Similarly, Hanner.J defines it as the "simultaneous cessation of work by employees." In Labour relations, a strike represents an organized work stoppage undertaken by a group of employees to enforce employment-related demands or protest unfair Labour practices.

Various authoritative sources have offered comprehensive definitions of the term "strike." An American judge articulated it as "an act of quitting work by a body of workmen to coerce their employer into conceding to certain demands they have made, which the employer has refused. It does not constitute a strike for workers to quit work, either individually or collectively, without intending to return, regardless of the reasons motivating them." The Encyclopaedia Americana defines a strike as "a concerted withdrawal from work by a group of workers employed within the same economic enterprise." The Columbia Encyclopaedia traces the historical use of 'strike' as "to make one's way." Halsbury's Laws of England defines it as "a simultaneous cessation of work by a group of employees, acting in combination, or a concerted refusal under a common understanding of any number of persons employed in a trade or industry to continue working or to accept employment." Armstrong and Knight describe a strike as "the deliberate withdrawal of Labour by workers aimed at persuading the employer to offer better terms."

Similarly, the International Encyclopaedia defines a strike as "a collective stoppage of work intended to influence those reliant on the products of that work." Hill characterizes it as "a mutual agreement among workers to cease work to obtain or resist a change in working conditions." Black defines it as "an act of quitting work by a group of workers to coerce their employer into acceding to demands they have made." V.P. Arya describes it as "the stoppage of work by employees to enforce demands on an unwilling employer." Edward I. Skyes defines it as "a concerted refusal to work with the objective of gaining concessions or advantages from others who would ordinarily be employers." The American Bureau of Labour defines it as "a temporary cessation of work by a group of employees to express grievances or enforce

demands." A strike is distinguished by the temporary cessation of work, with employees retaining their jobs and refusing to fulfill contractual obligations temporarily. It serves to highlight workers' demands and their willingness to resort to direct action or work stoppage.

COLLECTIVE BARGAINING

Collective bargaining has been acknowledged as an effective method for resolving disputes between Labour and management. In countries like Austria, Denmark, France, Germany, Italy, the Netherlands, Spain, and Sweden, where sectoral collective agreements are prevalent, nearly 100% of private sector employees are covered by such agreements. The high coverage rates are often facilitated by systems that extend sectoral collective agreements to non-member employers and employees in countries like Austria, France, Germany, and the Netherlands. In Finland, Greece, and Ireland, inter-sectoral agreements contribute to achieving high levels of bargaining coverage. Conversely, in the UK, where bargaining predominantly occurs at the company or lower levels, only slightly over a third of employees have their pay determined by collective bargaining. On average, approximately 80% of the relevant workforce across current European Union member states is covered by collective bargaining agreements.

BARGAINING FACTOR

Through the process of collective bargaining, workers enhance their leverage by uniting to enhance their circumstances and livelihoods. Below are the top 10 factors that influence a union's bargaining capacity in the workplace. These elements should be considered when negotiating a new contract and terms for individual employees or the workforce as a whole.

PERCENTAGE OF WORKERS ORGANISED

Bargaining dynamics are influenced by the principles of supply and demand. When a larger proportion of workers in an industry are organized, their collective bargaining power increases. Conversely, an abundance of unions within an industry diminishes their bargaining influence. Employers may employ strategies such as 'divide and rule' when faced with numerous unions. However, even when workers are united and constitute a majority, uncertainties in the industry's future may weaken the union's bargaining position, potentially leading to concessions. Market conditions, such as oversupply or decreased demand, may prompt management to declare a lockout in response to worker strikes. Additionally, legislative

requirements may dictate conditions that must be met by trade unions for effective bargaining with employers. According to the Second Labour Commission, a trade union representing 60 to 65 percent of workers in a unit is deemed to possess bargaining power.

SKILLED NEGOTIATOR

While having a skilled negotiator is valuable, it's not the sole determinant of successful bargaining. The effectiveness of negotiations hinges on the union's market share and control over the Labour supply. Even the most adept negotiator cannot secure favorable terms if the union lacks significant market influence. Negotiations, typically led by trade union leaders, are bolstered when they garner support from the majority of the workforce. However, leaders must also weigh the potential outcomes of their demands and agitation, considering both success and failure scenarios. If a strike is declared, there's a risk that management may relocate the plant, adversely affecting the majority of employees. Therefore, it's in the best interest of union members to resolve disputes swiftly and seek feasible monetary benefits. Merely relying on union strength is insufficient; market dynamics must also be considered before resorting to a strike, as the employer may opt to close or relocate the plant based on economic viability.

PROHIBITION OF COLLECTIVE BARGAINING

In Bahrain, trade unions are prohibited by law. Although the partially suspended 1973 Constitution acknowledges the right to organize, the Labour law does not explicitly recognize this right, nor does it mention the right to collective bargaining or to strike. The 1974 Security Law explicitly forbids strikes, citing potential harm to the existing employer-employee relationship or to the country's economic well-being. Instead, the law permits the establishment of selected workers' committees in larger companies, as well as Joint Management-Labour Consultative Councils (JCCs), which require government approval to be formed. Presently, JCCs exist in 19 large joint venture and private sector companies, and the Minister of Labour advocates for their implementation in all workplaces with over 200 employees. While workers' representatives on the JCCs are elected, they are restricted from holding election meetings or campaigning. Although these representatives engage in discussions with management to represent workers' interests, they lack the authority to negotiate or bargain effectively. Conversely, Article 5, paragraph XVII of the Constitution of Brazil guarantees full freedom of association for lawful purposes, explicitly prohibiting associations with paramilitary

objectives.

THIRD PARTY ASSISTANCE IN COLLECTIVE BARGAINING DISPUTE

The significance of conciliation and mediation as methods for facilitating voluntary agreements is acknowledged across Canada. Canadian Labour relations laws incorporate provisions for conciliation or mediation assistance when parties are unable to resolve their differences. Specific timeframes are established for seeking such assistance, and in many jurisdictions, the right to strike or lockout is only permitted after attempting compulsory mediation or conciliation.

While third-party assistance can be sought in India to resolve disputes, experience suggests that it often has adverse effects on trade unionism. In some cases, politicians and certain prominent union leaders have mediated in a manner that did not benefit union members. Despite being urged by union leaders to strike, the resulting agreements were often unsatisfactory and failed to fulfill the members' aspirations. Consequently, a majority of striking union members reject government employees as third-party mediators and instead advocate for the appointment of experienced individuals in the relevant field. This reflects a trust in the judiciary and experts in the field, rather than in government employees, who may prioritize job security and maintaining relations with the government over the interests of striking employees. For instance, junior doctors in Andhra Pradesh emphasized the importance of excluding high-ranking government officials from settlement committees appointed by the court, recommending instead the inclusion of field experts to ensure impartial mediation.

ILO'S DEFINITION OF STRIKE

On January 28, 1993, the Fourteenth International Conference of Labour Statisticians passed a resolution that superseded the interim resolution previously adopted, which included a definition of the term "Strike".

ILO Defines Strike as, "a temporary work stoppage affected by one or more groups of workers with a view to enforcing or resisting demands or expressing grievances, or supporting other workers in their demands or grievances".

DEFINITION UNDER INDUSTRIAL DISPUTE ACT, 1947

Section 2(q) of the Industrial Disputes Act defines 'Strike' as:

"Strike," means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under common understanding, or any number of persons who are or have been so employed to continue to work or to accept employment".

A strike is characterized by employees temporarily refraining from fulfilling their contractual obligation to perform work. The essence of a strike lies in the non-performance of work stipulated by the employment contract, making it a temporary cessation of work. It is assumed that employees engaging in a strike have no intention of resigning from their positions, and the work temporarily refused must be part of their contractual obligations.

Strikes typically involve collective action, firstly because a sufficient number of employees must participate to exert pressure or cause disruption to achieve desired outcomes. Secondly, strikes are collective due to the shared commitment of employees as a group. Collective interests may arise from individual cases, such as the dismissal of a member of a union delegation, which threatens the principles of trade union freedom and representation within the enterprise. Therefore, a strike can be defined as a temporary, usually collective, refusal to fulfill the contractual obligation to perform work.

The definition provided under the Industrial Disputes Act, 1947, is comprehensive and encompasses two main aspects. Firstly, it pertains to the cessation of work by a collective of individuals employed in any industry. Secondly, it addresses the concerted refusal or common understanding among a group of current or former employees to cease work or reject employment.

The essential characteristics of a strike outlined within this definition include:

1. The cessation of work.

2. The collective nature of the cessation, involving a group of individuals.

3. The employment status of the individuals involved, within any industry.

4. The collective action, indicating a coordinated effort.

5. The concerted refusal or common understanding among the group.

6. The involvement of individuals who are currently employed or have been employed.

7. The objective of the refusal being to cease work or reject employment.

CESSATION OF WORK

The duration of the cessation of work is not determinative in classifying it as a strike, regardless of whether it involves a coordinated effort by workers. However, the courts have clarified that mere demonstration or delay in commencing work does not necessarily constitute a strike. For instance, in the case of **Standard Vacuum Oil Company Madras v. Gunaseelan (M.G) and others**, workers who refused to work on May Day but agreed to compensate by working on another holiday were deemed not to be engaging in a strike.

There are instances where workers may temporarily leave their employment to fulfill social obligations, such as attending a coworker's funeral. However, it is expected that workers seek permission from their employer before leaving the workplace under such circumstances. Failure to do so may be deemed as potentially disrupting industrial peace.

MERE ABSENCE DOES NOT CONSTITUTE A STRIKE

It is often emphasized that mere presence during a strike does not categorize an employee as participating in the strike. Merely being present amidst a crowd during a strike event may not constitute active participation in the strike. There are instances where employees, in order to avoid risk, may leave the workplace during a strike and join the procession of strikers without actively engaging in the strike itself. This emphasizes the importance of distinguishing between mere presence and active involvement in the strike action.

Court rulings that state "witnessing the strike along with a crowd may not amount to strike" appear to be delivered with sympathy and understanding. It is emphasized that the mere absence of a worker does not automatically constitute a strike. There must be evidence to demonstrate that the absence was a result of concerted action or a common understanding among workers to cease work.

Furthermore, failure to report for duty during a strike does not necessarily equate to participating in the strike. There are situations where workers may be willing to work but are unable to attend due to various reasons. It is essential for workers to communicate with their supervisors or employers and provide reasons for their absence, even if communication systems were not as advanced as they are today.

In the current era, with the prevalence of sympathetic strikes and various demonstration techniques employed by unions, it may be reasonable to reconsider provisions regarding participation in strikes and make suitable amendments to reflect the evolving circumstances.

DETERMINING THE DURATION OF CESSATION OF WORK

For an action by workers to be classified as a strike, the cessation of work must involve coordination among them, with the intent to halt operations. Even if a group of workers is considered to be "acting in combination" and shares a common objective, such as confronting management or law enforcement, if their primary aim is not to cease work but rather to achieve a different goal, it does not constitute a strike.

In the case of **Mangaram & others v. Lobour Appellate Tribunal,1958** adjudicated by the Allahabad High Court involving workers who, after clocking in, refused to work and engaged in a demonstration for thirty minutes, the court ruled that this did not amount to a cessation of work but rather a delayed start, thus not constituting a strike. However, considering the duration of the disruption, any absence, even if momentary, could be construed as a strike. Therefore, it is argued that the incident should have been classified as a strike rather than merely a delayed start.

REFUSAL TO WORK ON DESIGNATED HOLIDAYS

In instances where, as per prior agreements, management mandates employees to work on specified holidays due to operational exigencies, a collective refusal by the workers to comply constitutes a strike.

CESSATION OF WORK ON NON-MANDATORY HOLIDAYS

If employees collectively cease work on a non-mandatory workday, such as a Sunday or optional holiday, it would be considered a strike provided other stipulated conditions are met.

INTERPRETING INSTANCES AS STRIKES

At times, circumstances may lead an employer to conclude that employees' actions amount to a strike. For instance, when a significant number of employees and their representatives request leave for various reasons and refuse to resume work despite the employer's efforts to address the situation, it may be deemed a strike. However, it's essential for the employer to thoroughly examine the circumstances leading to the workers' refusal to return to work.

CONSIDERATIONS FOR WORK STOPPAGE

Certain situations, such as workers leaving a hazardous area due to an overheated boiler, may not constitute a strike, as safety concerns supersede work obligations. However, if workers absent themselves or refuse to work following an interval due to unforeseen circumstances, such as the sudden death of a colleague, it may be classified as a strike due to its potential to disrupt industrial harmony.

REFINING THE DEFINITION

The definition of 'strike' outlined in Section 2(b) of The Sikkim Essential Services Maintenance Act, 1978 represents an enhanced iteration of the definition provided in Section 2(q) of the Industrial Disputes Act, 1947. Section 2(b) of Act 7 of 1978 specifies that:

The term "strike" encompasses the cessation of work by individuals employed in essential services, either collectively or through concerted refusal, including:

a) Refusal to work overtime when such work is crucial for maintaining essential services.

b) Any behavior likely to cause significant work cessation or retardation in essential services.

It is noteworthy that even refusal to work overtime and deliberate work slowdowns are considered strikes under this definition. Furthermore, a small state that joined India in 1975 undertook several measures to amend the definition of "strike" in the state's interest.

Analysis:

Following independence, the judiciary displayed a considerable bias toward employees. In the 1953 **Buckingham and Carnatic Mills case**, the Supreme Court ruled that the duration of a

strike is inconsequential in its classification. Subsequently, in the 1956 **Raj Bahadur Mills case,** the Supreme Court emphasized that even short-duration strikes can't absolve participants from the repercussions of an illegal strike, irrespective of whether it was concerted or not. Additionally, the 1957 Allahabad High Court ruling in **Mangaram's case**, presided over by Justice Kidwai, held that mere demonstration or delay in commencing work does not qualify as a strike. However, if intentional delay aligns with other conditions outlined in Section 2(q), it constitutes a strike. Under these judicial interpretations, even a momentary cessation of work amounts to a strike.

Despite these precedents, there were instances where different groups of employees acting in various manners were not classified as a strike, as seen in the Patna High Court's decision in 1950.

The Allahabad High Court's ruling in **Mangaram's case**, where workers conducted a demonstration after punching their time cards, was deemed contentious. The act of demonstrating instead of fulfilling work duties after punching the time card was considered a violation of work regulations rather than a strike. This decision seemingly contradicts the Supreme Court's earlier ruling in the **Buckingham & Carnatic Co (1950) case**. The inconsistency between the 1950 Supreme Court decision and the 1958 Allahabad High Court decision raises questions about judicial coherence.

However, subsequent cases showed consistency in judicial opinions. For instance, in the 1960 Punjab National Bank case, workers who refused to return to work despite best efforts were classified as being on strike. Similarly, in the 1951 **Meenakshi Mills case**, workers absenting themselves due to a colleague's sudden demise were considered on strike. These decisions underscore the need for a clearer definition of what constitutes a strike.

Considering the above rulings, it is suggested that the definition of "strike" be amended:

i) Workers must engage in some form of protest through action or omission.

ii) The duration of work cessation is inconsequential.

iii) Workers ceasing work may not necessarily act in concert.

iv) Circumstantial evidence suffices to establish concerted refusal or common understanding.

v) The duration of the protest or work cessation is irrelevant.

It is evident that the current definition of "strike" fails to adequately address the concerns of both employees and employers. The proposed amendment, introduced in 1982 (pending implementation), aims to mitigate the impact of strikes, particularly in essential services such as hospitals and educational institutions. This amendment would help alleviate the disruptive effects of strikes, particularly in critical sectors.

FREEDOM TO STRIKE

The right to strike is the collective action undertaken by workers to refuse to work under conditions deemed unsatisfactory by their employers. Strikes may occur for various reasons, primarily in response to economic factors, aimed at improving wages and benefits, or Labour practices, intended to enhance working conditions.

In every form of society, whether democratic, capitalist, or socialist, workers are typically granted the right to strike. However, this right should be regarded as a measure of last resort, as its misuse can disrupt production and adversely affect the economic prosperity of industries and, consequently, the nation's economy.

In India, while the right to protest is recognized as a fundamental right under Article 19 of the Constitution, the right to strike is not considered a fundamental right but rather a legal right. This right is subject to statutory limitations established within the Industrial Disputes Act, 1947. It's noteworthy that the Industrial Disputes Act, 1947 has been subsumed under The Industrial Relations Code, 2020.

In India, unlike the United States, the explicit recognition of the right to strike is absent in legal provisions. The Trade Union Act of 1926 marked the initial acknowledgment of a limited right to strike, permitting certain activities of registered trade unions to advance trade disputes, even if in contravention of general economic laws.

Presently, the right to strike is acknowledged only within prescribed limits, serving as a legitimate tool for trade unions within the confines defined by law. Under the Indian constitution, the right to strike is not absolute but is derived from the fundamental right to form a trade union. Like other fundamental rights, this right is subject to reasonable restrictions,

allowing workers to strike as part of union activities while the state retains the authority to impose reasonable limitations.

The right to strike has also garnered recognition through the conventions of the International Labour Organization (ILO), of which India is a founding member.

The Industrial Disputes Act, 1947 (IDA) serves as a cornerstone in regulating industrial disputes, including the right to strike. It defines a strike as the suspension of employment by a group of individuals engaged in an industry, aimed at continuing or obtaining employment. Moreover, the IDA plays a pivotal role in recognizing trade unions, which are instrumental in safeguarding and promoting the interests of workers, including their right to collective negotiations with employers.

LEGALITY OF STRIKES

The legality of strikes in India hinges on various factors:

Purpose: A strike must be called for legitimate reasons, such as safeguarding working conditions, protesting unfair Labour practices, or seeking union recognition.

Compliance with Procedures: Prior to organizing a strike, workers must adhere to prescribed procedures outlined in the IDA, including notifying the employer and engaging in conciliation processes.

Public and Employer Impact: Strikes in essential services, like hospitals and transport, are typically prohibited to prevent undue hardship to the public or employers. Additionally, strikes must be conducted in a manner that does not jeopardize property or human safety.

ROLE OF THE COURTS

Determining the legality of a strike falls within the purview of the courts, which assess each case's facts and circumstances. Courts consider factors like the strike's purpose, compliance with procedural requirements, and potential impact on the public and employers in rendering their judgments.

IMPORTANCE OF THE RIGHT TO STRIKE

The right to strike is a potent tool for workers to protect their interests and bargaining power. It enables collective expression of grievances and facilitates recourse against employer injustices. Nonetheless, exercising this right responsibly and in accordance with legal norms is imperative to mitigate disruptions to public life and economic stability.

In **All India Bank Employees' Association v. National Industrial Tribunal (1970),** the Supreme Court ruled that while the right to strike is not considered a fundamental right, it is recognized as a statutory right under the Industrial Disputes Act (IDA). Furthermore, the Court emphasized that the IDA offers a framework for resolving industrial disputes, and strikes should be utilized as a final recourse.

In **T.K. Rangarajan v. Government of Tamil Nadu (2003)**, the Supreme Court affirmed the legality of the Tamil Nadu Government Servants' Conduct Rules, 1973, which prohibit government employees from participating in strikes. The Court ruled that the right to strike is not absolute and may be curtailed in the interest of maintaining public order.

The contemplation of a permanent ban on strikes arose immediately following the strike of 1960, prompting the central government to consider enacting anti-strike legislation. During the Lok Sabha sessions on August 8-9, 1960, deliberations revolved around the Essential Services Maintenance Ordinance of 1960 and the central government employee strike of July 12-17, resulting in the approval of the Government's actions. Furthermore, even political parties have refrained from endorsing strike activities voluntarily since independence. Workers themselves have appealed to the government to designate their roles as 'essential services,' acknowledging their own willingness to avoid strikes. Senior political figures have acknowledged their past errors in supporting militant trade unions, while governments have explored the establishment of 'strike-free' sectors such as Information Technology. Judicial statements have also underscored the lack of legal or moral rights for employees to engage in strikes, further indicating a lack of favorability towards strikes from any branch of the constitutional machinery.

Additionally, educational institution heads have urged political parties to exempt educational institutions from strikes and bandhs, reinforcing the notion that neither employers nor employees advocate for strikes. The act of political parties staging walkouts during legislative proceedings as a form of protest against government actions is likened to workers withdrawing

their Labour under unfavorable working conditions. However, depriving legislators of their right to leave the house could lead to an information gap between the government and the people, potentially resulting in anarchy.

Despite India being a member of the International Labour Organization (ILO), reports indicate instances where the police have resorted to violent means to deal with strikers, highlighting the challenges in enforcing workers' rights, particularly in the informal sector. Moreover, the restriction of government servants' right to strike has been deemed essential due to the highly politicized nature of trade unions and their affiliation with political parties. This political dynamic underscores the critical need for civil servants' political neutrality in upholding constitutional democracy.

While India has implemented the spirit of various international conventions regarding workers' rights, challenges persist in ensuring the protection of all workers, especially those in the unorganized sector. Efforts to organize and protect workers' rights in the unorganized sector have been limited, resulting in disparities in the availability of welfare legislation benefits. Upholding the right to strike is seen as essential in safeguarding workers' interests and preserving the welfare state ethos enshrined in the Constitution.

Furthermore, in the face of changing global dynamics, such as liberalization and increasing unemployment, traditional forms of protest like strikes are becoming less viable. It is suggested that both trade unions and workers adapt their strategies to these changing circumstances. Additionally, the government bears responsibility for fair governance and administration to prevent unwarranted disruptions to public services.

Attempts to impose a permanent ban on strikes have been met with resistance, reflecting societal conscience and the fundamental importance of workers' rights. The community's solidarity with the working class in the face of severe government measures underscores the inherent dignity and worth of employees. While restrictions may be imposed on workers' rights, a permanent ban on the right to strike may not be feasible in the foreseeable future, given the potential repercussions on workers' fundamental rights and liberties.

EVOLUTION OF STRIKE IN INDIA

The concept of "association" and collective action can be traced back to the earliest stages of

human civilization. In ancient times, beings of all kinds engaged in behaviors aimed at protecting their territories and resources vital for survival. Humans, evolving from this primal instinct, initially formed groups to safeguard their food sources and ensure their survival. As societies transitioned from nomadic lifestyles to settled agricultural communities along riverbanks, the need for cooperation and collective organization became increasingly apparent.

With the development of agriculture and the division of Labour, humans began to form more structured groups and societies. These groups eventually evolved into organized communities and societies. The emergence of concepts such as "property" and "wealth" accompanied this transition, reflecting the need to manage resources and allocate tasks efficiently within these communities.

Among the various forms of association that emerged, guilds played a significant role in ancient India. These guilds, known by various terms such as gana, puga, vrata, and sangha, served as organized bodies that facilitated economic activities, promoted trade, and protected the interests of their members. Panini's Asthadhyayi provides evidence of the rise of guilds coinciding with the growth of industry, indicating their importance in ancient Indian society.

The utilization of the term 'nigama' in the Ramayana to denote a society of traders and craftsmen, and its usage in the Mahabharata to signify a guild of merchants, reflects the historical presence of organized trade and commerce in ancient India. By 600 B.C., India, known as Bharat, exhibited considerable urbanization and had established a social structure based on two fundamental principles: guna (innate character) and shrama (striving). These principles guided individuals in fulfilling their duties and obligations within society.

The Hindu legal system, rooted in religious and moral precepts known as "Shruti" and "Smriti," played a significant role in shaping societal norms and behaviors. Hinduism, characterized by its openness to religious innovation, evolved over time to accommodate changing social and cultural dynamics. The essence of Hinduism, encapsulated in the Bhagavad Gita, emphasizes the importance of performing one's duty, or "swadharma."

As society evolved, new texts such as the Upanishads, Dharma Shastras, and Dharma Sutras were authored by revered saints and sages to address the changing needs of the populace. These texts underscored the importance of dharma (duty) in guiding individual conduct and societal organization.

Kautilya's Arthashastra, a seminal treatise on statecraft and governance, highlighted the presence of confederacies and oligarchies in ancient India. These political entities played a crucial role in ensuring stability and security within the realm.

The emergence of trade unions during the British colonial period marked a significant shift in India's industrial landscape. With the establishment of the first cotton mill in Bombay in 1854 and the first jute mill in Bengal in 1855, the modern factory system began to take shape. Early trade unions, or combinations as they were known, arose spontaneously among workers seeking protection in rapidly industrializing sectors.

The legal framework governing trade unions underwent significant changes over time. Early legislation, such as the Statute of Labourers in England, imposed legal obligations on workers and restricted their ability to engage in collective action. The Combination Acts of 1799-1800 in Britain prohibited the formation of unions and declared strikes a criminal offense. However, subsequent legislative reforms, such as the Combination Law Repeal Act of 1824, legalized trade unions and recognized workers' rights to collective bargaining.

In India, the Labour movement gained momentum in the late 19th century, with protests initiated by social reformers and intellectuals. Lord Macaulay's condemnation of the Labour system in India in 1840 and subsequent legislative measures aimed at addressing Labour grievances laid the groundwork for organized Labour activism.

In the case of **R vs. Bunn**, Brett J. ruled that the Trade Union Act of 1871 abolished criminal liability concerning trade restraints. However, he emphasized that interfering with an employer's business with improper intent remained an offense under common law. The enactment of the Trade Union Act in 1871 spurred a significant expansion of trade unionism, but a wave of unsuccessful strikes during the industrial depression of 1874 led to the dissolution of many small unions. Subsequently, the appointment of the second Royal Commissioner in 1874 resulted in the passage of the Conspiracy and Protection of Property Act of 1875 and the Employers and Workmen Act of 1875, which repealed earlier legislation such as the Master and Servant Act of 1867 and the Criminal Law (Amendment) Act of 1871.

In 1875, Sarobji Shapuri in Bombay protested against the poor working conditions of workers, while a group of social reformers and philanthropists, led by Mr. S.S. Bengalee, advocated for improved conditions in factories, particularly for women and children. This led to the

appointment of the first Factory Commission in 1875 and the passing of the first Factory Act in 1881. However, the provisions of this act were found to be inadequate, prompting further agitation.

The founder of the organized Labour movement in India, Mr. N.M. Lokhande, established the Bombay Mill Hands Association and spearheaded efforts to advocate for workers' rights. He convened mass meetings and submitted memoranda to government commissions, resulting in concessions such as weekly holidays for mill workers. Subsequently, numerous Labour associations emerged across India, leading to the passing of a new Factories Act in 1891.

Despite these developments, the Labour associations of this period primarily focused on welfare issues rather than engaging in collective bargaining or strikes. Class consciousness among Labourers was limited, and there was a lack of effective realization of the systemic issues within the factory system. However, by the outbreak of World War I, two significant influences began shaping the working class movement: the influence of the Trade Union movement and leaders of the Labour Party in the UK, as well as the thoughts and struggles of Mahatma Gandhi.

During the period from 1918 to 1924, the emergence of organized Labour movements gained momentum in India. While the formation of worker associations had been observed earlier, with the Allahabad Cotton Mills workers establishing a union in 1917 under the leadership of Shrimati Anasuyaben, the systematic formation of the first industrial union is credited to Mr. B.P. Wadia. Working closely with the theosophist Mrs. Annie Besant, Wadia founded the Madras Labour Union in 1918, marking a significant milestone in the Labour movement.

Mahatma Gandhi's return to India from South Africa in 1918 coincided with the aftermath of World War I, and he immediately immersed himself in efforts to empower Indian peasants and workers. Gandhi initiated a struggle in Champaran to free Indian peasants and workers from exploitation by British indigo planters. This was followed by Gandhi's leadership in the great textile workers' strike in Ahmedabad, which he termed a "Dharmayudh" or righteous struggle.

Between 1919 and 1923, a multitude of unions sprang up across the country. Notably, in Ahmedabad, under Gandhi's inspiration, spinners' and weavers' unions federated into the Textile Labour Association. The Russian Revolution also had a favorable impact on the Labour movement in India during this period.

The establishment of the International Labour Organization and the All India Trade Union Congress on October 30, 1920, further catalyzed unionism in India. However, many early unions lacked stability, often functioning as strike committees with minimal organizational structure.

In response to the need for legislation to protect and regulate trade unions, Shri. N.M. Joshi advocated for such measures in the legislative assembly in 1921. His efforts led to the passing of the Trade Union Act of 1926, which provided for the registration and protection of trade unions and their officials from civil and criminal liability for legitimate trade union activities.

During the period from 1924 to 1935:

Unlike in America, where the right to strike is expressly recognized by law, in India, this right was not explicitly acknowledged until 1926. The Trade Union Act of 1926, enacted after the introduction of a Trade Union bill in 1925 and its subsequent passage, provided limited legal protection for certain activities of registered trade unions in furtherance of trade disputes, which would otherwise be considered breaches of common economic law. The recognition of the right to strike in the Indian constitutional framework is not absolute but derives from the fundamental right to form unions. However, like other fundamental rights, this right is subject to reasonable restrictions imposed by the state.

The third phase of the Indian Labour movement, termed Left Wing Trade Unionism, saw a rise in communist influence. This period was marked by violent strikes across various industrial centers, attributed mainly to the economic hardships faced by workers. The late 1920s witnessed large-scale strikes in cities like Bombay, Kanpur, Sholapur, and Jamshedpur, as well as on the railways. The Royal Commission on Labour, appointed in 1929, submitted its report in 1931. Subsequently, the Trade Disputes Act of 1929 was passed to address the settlement of industrial disputes.

However, the influence of communists began to wane after 1930, following the failure of a general strike they sponsored. Legal actions against communist involvement in the Meerut Conspiracy case and the unsuccessful Bombay Textile Strike of 1929 also contributed to a decline in trade union activity. Despite these setbacks, significant developments occurred, such as the passing of the Indian Trade Union Act of 1926, which provided for voluntary registration of trade unions and conferred certain rights and privileges on registered unions.

During the period from 1935 to 1939:

The merging of the Red Union Congress with the All India Trade Union Congress (AITUC) in 1935 marked a consolidation of Labour organizations. The deteriorating economic conditions of workers led to a heightened awareness of the need for organizing to secure relief. The Hindustan Mazdoor Sevak Sangh, formed as an offspring of the Labour sub-committee established by the Gandhi Seva Sangh in 1937, played an advisory role in organizing Labour on Gandhian principles. In 1937, there were 379 strikes involving 647,801 workers, while 1938 saw a general strike of jute mill workers in Calcutta, involving 200,000 workers. The affiliation of the National Trades Union Congress (NTUC) with AITUC occurred in 1938.

The year 1939 witnessed the famous Digboy Oil Field strike, signifying a healthy development of unity among different trade unions and a revival of trade union activity during this period.

During the period from 1939 to 1946:

The escalation of employment resulting from the Second World War and the widening gap in living standards and earnings among workers contributed to the stabilization of the Labour movement. Notably, a shift in attitude was observed not only among employers but also within the government. Several unions disassociated themselves from the All India Trade Union Congress (AITUC) during this period.

Amidst the emergency, the Defence of India Rules, 1942 remained in effect, granting the government significant authority. Rule 81A empowered the government to mandate employers to adhere to specified terms and conditions of employment, refer disputes for conciliation or adjudication, enforce decisions made by adjudicators, and issue general or special orders to prohibit strikes and lock-outs in connection with any trade dispute, unless reasonable notice had been provided.

In 1946, a dispute arose between AITUC and the Indian Federation of Labour (IFL) regarding their representative character. Following an inquiry by the Chief Labour Commissioner of the central government, the representative character of AITUC was affirmed. Additionally, the Industrial Employment (Standing Orders) Act, 1946 was enacted to standardize employment conditions in industrial establishments, aiming to minimize conflicts.

At the state level, the Bombay Industrial Relations Act, 1946 was another significant enactment, outlining detailed provisions for the recognition of trade unions and their rights. Subsequently, in 1947, the Indian National Trade Union Congress was formed, followed by the establishment of the Hindu Mazdoor Sabha in 1948.

Various splinter groups from the HMS and AITUC formed the United Trade Union Congress (UTUC) in 1949. Further organizational developments included the formation of the Bharatiya Mazdoor Sangh (BMS) in 1955 and the Hind Mazdoor Sangh (HMS) in 1962.

Efforts to consolidate unity within the Labour movement have been ongoing since 1952, marked by joint conferences between AITUC and UTC in 1953, and the expressed interest of various organizations in unity in 1956.

Over the years, there has been a notable trend in terms of the number of workers involved and the man-days lost in industrial disputes. Despite fluctuations, the declaration of emergency in 1975 led to a reduction in disputes due to the fear of legislation such as the Maintenance of Internal Security Act (MISA) and the Defence of India Rules (DIR). However, with the lifting of the emergency, the number of disputes began to rise again. The highest number of strikes recorded was in 1977, with a significant proportion of man-days lost due to strikes in 1982. Since 1977, there has been a decline in the number of strikes, reaching 221 in 2001.

CONSTITUTIONAL STANDS ON STRIKES

Contrary to international norms where the right to strike is generally recognized as a fundamental human right, in India, the Right to Strike is not expressly enshrined in law. Instead, it is subject to reasonable restrictions imposed by the state.

Entry 29 in List III (Concurrent List) of the VII schedule of the Constitution of India pertains to trade unions, industrial and Labour disputes, while Entry 61 (also in the Concurrent List) deals with industrial disputes concerning union employees. This grants both the central and state legislatures the authority to legislate on matters related to trade unions, Labour disputes, and social security.

Article 19(1) of the Indian Constitution guarantees certain freedoms as fundamental rights, including the right to freedom of speech and expression, assembly, association or unions,

movement, residence, and profession. However, the right to strike is not explicitly delineated or recognized within the Indian Constitution.

In the case of 'All India Bank Employees Association v. I. T. (1961)', the Supreme Court held that the right to strike may be controlled or restricted by appropriate industrial legislation, and its validity should be evaluated based on different criteria than those specified in Article 19(4).

The Supreme Court views strikes as an essential weapon in the employees' arsenal for seeking redress, safeguarding liberty, and preserving collective bargaining power. While the right to strike is not elevated to the status of a fundamental right, it is considered an inherent legal right for every employee.

Both the Indian Constitution and the Industrial Dispute Act, 1947, treat the right to strike as a legal right, subject to reasonable restrictions. The significance of this right lies in its pivotal role in the collective bargaining process for workers.

Therefore, while the constitution guarantees the fundamental right to association and union under Article 19, it does not explicitly provide the fundamental right to strike.

The question of whether the right to strike constitutes a fundamental right remains contentious, with courts offering no definitive view. However, it is evident that the right to strike is a statutory implied right, subject to certain restrictions.

DIFFERENCE BETWEEN STRIKE AND LOCK OUT

Aspects	**STRIKE**	**LOCKOUT**
Initiator	Employees or labour unions initiate	Employers initiate
Purpose	Pressure employer to address grievances or demands	Pressure employees to accept employer’s terms

Duration	Temporary cessation of work	Temporary workplace closure, not a permanent shutdown
Collective Action	Collective action by employees	Employer-centric action
Motivation	Employee grievances	Labour disputes, often related to negotiations
Legal Regulations	Subject to legal regulations; violations can lead to legality challenges	Subject to legal regulations; violations can lead to legality challenges

STATUTORY PROVISIONS ON STRIKE

The Industrial Disputes Act, 1947

The Industrial Disputes Act 1947 is legislation designed to ensure social justice for both employers and employees and to promote the advancement of the industry by fostering harmony and a cordial relationship between the parties involved. The primary objective of the Act is not only to provide for the investigation and resolution of industrial disputes but also to secure industrial peace, thereby leading to increased production and the enhancement of the national economy. Cooperation between capital and Labour is deemed essential for maintaining heightened production levels and industrial harmony. The essence and impact of the ID Act aim to foster industrial peace, legitimize trade union activities, and deter unfair employer practices or victimization of workers.

In addressing industrial disputes, courts have consistently underscored the doctrine of social justice, rooted in the fundamental concept of socio-economic equality, and have accorded it paramount consideration.

STRIKES IN PUBLIC SECTOR UNDERTAKINGS (SECTION-22)

It is incumbent upon the State to recognize new forms of action arising from Labour disputes and incorporate them into relevant national statutes that adhere to both national and international standards. Such statutes should aim to enhance the living standards of workers and bolster the nation's production capacity by taking into account specific national needs and circumstances. Governments should periodically assess the impact of these provisions and their potential future implications on the nation, especially in comparison to the international landscape.

Additionally, it is the duty of the State to identify alternative measures that may replace existing provisions periodically to meet evolving societal needs.

A Labour dispute entails a state of disagreement over particular issues between workers and employers, or about grievances expressed by either party, or concerning support extended by workers or employers to other parties with their demands or grievances. In India, after considering all relevant conventions and prevailing circumstances, the legislature enacted Section 2(q) of the Industrial Disputes Act, 1947, which defines the term "strike" as follows: "strike" means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal, under a common understanding of any number of persons who are or have been so employed to continue to work or accept employment."

It is notable that the provisions of sections 22 and 23 of the Act, 1947, do not prohibit workers from going on strike but require them to fulfill certain conditions before doing so. The intention of section 22 is to provide adequate safeguards, especially in matters concerning public utility services, to prevent significant inconvenience to society and the general public. Fulfilling the conditions outlined in Section 22 renders a strike legal. However, while the right to strike is recognized as a tool for workers, its exercise must consider the broader societal impact to avoid lawlessness and chaos. Compliance with specified conditions, including notice requirements and exhaustion of conciliation proceedings, is essential. These provisions primarily apply to public utility services.

Section 22(1) of the Industrial Dispute Act, 1947, imposes certain prohibitions on the right to strike. It stipulates that "no person employed in public utility service shall go on strike, in breach of contract:

(a) without giving notice of strike to the employer, as provided herein, at least six weeks before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the strike date specified in any such notice; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(a)(i) Reasons for Enacting the Section

The provisions of section 22 do not prohibit workers from going on strike but mandate compliance with specific conditions beforehand. The intent is to provide adequate safeguards for matters concerning public utility services to prevent significant inconvenience to society and the general public. Fulfilling the conditions outlined in Section 22 renders a strike legal. However, while the right to strike is recognized as a tool for workers, its exercise must consider the broader societal impact to avoid lawlessness and chaos. Compliance with specified conditions, including notice requirements and exhaustion of conciliation proceedings, is essential. These provisions primarily apply to public utility services. The prohibition of strikes in the circumstances outlined in sections 22 and 23 of the Act is based on public policy. Several statutory provisions have been made in line with section 22 in different statutes.

NOTICE OF STRIKE

Regardless of the issue, workers must serve notice under section 22 before going on strike. Notice to strike within six weeks before striking is unnecessary if a lockout already exists. If the strike date specified in the notice expires before the intended strike, workers must issue a fresh notice. Importantly, if a lockout is already in place, workers do not need to provide notice as otherwise required. Failure to comply with notice requirements may render a strike illegal.

If an employer receives a strike notice as per Section 22(1) from any employee, they must report the number of such notices received within five days to the appropriate government or prescribed authority. The provocation of workers to strike does not absolve employers from fulfilling the conditions required under section 22. If workers demand benefits or emoluments

to which they are entitled under the law of service contract and the employer refuses, workers are entitled to go on strike, provided they adhere to the provisions of the Act.

The provisions of section 22 are mandatory, and the specified strike date must be included in the notice. If the specified date expires before the strike occurs, workers must issue a fresh notice, subject to all statutory consequences. Even in the case of a second notice, provisions such as section 20(1) and 12(1) of the Act remain applicable. Deduction of wages for days of an illegal strike may be justified.

Notice required under sub-sections (1) and (2) must be given in the prescribed manner and must mention the proposed strike date; otherwise, it is ineffective.

If a strike notice is not necessary due to an existing lockout, the employer must notify the appropriate authority on the day the lockout is declared.

BREACH OF CONTRACT

The term "contract" in sections 22 and 23 refers to a contract of service, which may be express or implied. Breach of contract does not necessarily mean a breach of service conditions, and the prosecution is not required to produce standing rules to establish a contract breach. Even if there is a contract between an employer and employee, it may not be legally binding on the employees.

WHO SHOULD GIVE NOTICE?

The notice of strike may be given by the union of workers or a representative elected at a meeting held for this purpose, especially in cases where no trade union exists. However, the term "no person" in section 22(1) refers to workers, as only workers are likely to go on strike in an industry. It must be proven that the workers were employed in an industry deemed a public utility service within the meaning of section 2(n). Different states have varying provisions regarding who is entitled to give such notice.

PERIOD OF NOTICE - IMPORTANCE

A strike notice must be given to the employer six weeks before striking, and a strike cannot be declared within fourteen days of giving such notice. These conditions are intended to safeguard

society from potential inconvenience resulting from clashes between opposing groups. These provisions enable the government to take necessary steps to prevent and settle disputes within a two-week timeframe. Compliance with notice requirements and refraining from striking during conciliation proceedings are prerequisites for a legal strike. Failure to adhere to these conditions renders a strike illegal and may result in consequences such as deduction of wages for days of illegal strike.

NOTICE WHEN NOT NECESSARY

A strike notice is not required if a lockout is already in place. In such cases, the employer must notify the appropriate authority upon declaring the lockout.

GENERAL PROHIBITION OF STRIKE (SECTION 23)

Section 23 imposes general restrictions on declaring strikes during various stages of dispute resolution proceedings, including conciliation, arbitration, and operation of settlements or awards. The overarching aim is to maintain a peaceful atmosphere conducive to smooth conciliation, adjudication, or arbitration processes. This section applies to strikes in both public and non-public utility services and covers various circumstances to prevent disruptions during dispute resolution procedures.

The Act recognizes strikes as legitimate tools in industrial relations, but Section 23 aims to prevent strikes during certain crucial phases of dispute resolution. The prohibition on strikes is subject to certain limitations, and interpretation should consider whether the section was intended to apply to disputes between employers and the general body of employees or to individual workers.

In summary, the Industrial Disputes Act, 1947, aims to regulate industrial disputes, ensure fair treatment for both employers and employees, and maintain industrial peace. Its provisions, including those regarding strikes in public utility services and general prohibitions on strikes, are designed to strike a balance between the rights of workers and the interests of society as a whole.

The provisions of Section 23 of the Industrial Disputes Act, 1947, impose general restrictions on declaring strikes in both public and non-public utility services under various circumstances:

(a) Strikes are prohibited during the pendency of conciliation proceedings before a board and for seven days after the conclusion of such proceedings.

(b) Strikes are prohibited during the pendency of proceedings before a Labour court, Tribunal, or National Tribunal and for two months after the conclusion of such proceedings.

(c) Strikes are prohibited during the pendency of arbitration proceedings before an arbitrator and for two months after the conclusion of such proceedings if a notification has been issued under sub-section (3-A) of Section 10-A.

(d) Strikes are prohibited during any period in which a settlement or award is in operation concerning any matter covered by the settlement or award.

The primary objective of this section is to ensure a peaceful atmosphere for conciliation, adjudication, or arbitration proceedings to proceed smoothly. It applies to all strikes, regardless of the subject matter of the dispute pending before the authorities.

While the legislature recognizes strikes as legitimate tools in industrial relations, Section 23 should be interpreted in the context of whether it applies to disputes between employers and the general body of employees or to individual workers.

Case law, such as **Ballarpur Collieries Co. v. H. Merchant**, highlights that Section 23 does not necessarily apply to disputes where neither the employer nor the workers are actively involved. However, the section aims to prevent strikes during disputes between employers and the general body of employees, ensuring that the legitimate grievances of workers are not unduly suppressed.

Furthermore, Section 24 of the Industrial Disputes Act specifies the conditions under which strikes are deemed illegal. Strikes contravening Sections 22 or 23 are considered illegal, and consequences such as non-payment of wages for the strike period or disciplinary proceedings may follow. Additionally, Section 24 clarifies that strikes in response to an illegal lockout are not considered illegal.

Overall, strikes must adhere to statutory provisions and legal remedies, including compulsory arbitration, before being declared, as stipulated in Sections 22 and 23 of the Industrial Disputes Act, 1947.

EFFECT OF STRIKE

1. **Employees:**

- **Loss of Income**: Striking employees often face immediate financial challenges due to the loss of wages during the strike period. This can create hardships for workers, especially those living paycheck to paycheck.

- **Job Security:** In some cases, participating in a strike can lead to disciplinary actions by employers, including suspension or termination of employment. This threat to job security can cause anxiety and uncertainty among striking workers.

- **Solidarity and Unity:** Strikes can foster a sense of solidarity among workers as they come together to voice their grievances collectively. This unity can strengthen Labour movements and bargaining power in the long term.

- **Impact on Morale:** Extended strikes may lead to fatigue and frustration among workers, particularly if the strike does not result in desired outcomes. Low morale can affect productivity and overall job satisfaction.

2. **Employers:**

- **Disruption of Operations**: Strikes disrupt normal business operations, leading to delays in production, delivery, and service provision. This disruption can result in financial losses for employers, especially if the strike lasts for an extended period.

- **Costs of Replacement Workers**: Employers may incur additional costs to hire temporary or replacement workers to maintain essential services during the strike. These costs can significantly impact the company's budget and profitability.

- **Damage to Reputation:** Public perception of the employer may suffer during a strike, especially if the issues at stake are perceived as legitimate. Negative publicity can tarnish the company's reputation and affect customer loyalty.

- **Legal and Regulatory Compliance:** Employers must ensure compliance with Labour laws and regulations during strikes, including providing adequate notice to employees and

refraining from unfair Labour practices. Failure to comply can result in legal consequences and penalties.

3. **Government:**

- **Mediation and Conciliation:** Governments often play a role in mediating Labour disputes and facilitating negotiations between employers and employees during strikes. This may involve appointing mediators or arbitrators to help resolve conflicts and reach mutually acceptable agreements.

- **Maintaining Public Order:** Governments have a responsibility to maintain public order and safety during strikes, especially if they escalate into protests or demonstrations. Law enforcement agencies may be deployed to ensure the peaceful conduct of strike activities.

- **Policy and Legislation:** Strikes can influence government policy and legislation related to Labour rights and industrial relations. Governments may enact or amend laws to address the underlying causes of Labour disputes and prevent future strikes.

4. **General Public:**

- **Disruption of Services:** Strikes can disrupt essential services such as transportation, healthcare, education, and public utilities, affecting the daily lives of the general public. This disruption can inconvenience individuals and businesses alike.

- **Support or Opposition:** The general public may express support or opposition to strikes based on their perception of the issues involved and the impact on their lives. Public opinion can influence the outcome of Labour disputes and negotiations.

- **Economic Impact:** Prolonged strikes can have broader economic implications, including reduced productivity, lower consumer spending, and potential job losses in related industries. The ripple effects of strikes can contribute to economic instability in affected regions.

PENALITIES

Before imposing a penalty under Section 26 of the Industrial Disputes Act, it is essential to

establish beyond a reasonable doubt that:

In the case of **Madurantakam Co-op Sugar Mills vs. Vishwanathan (2005) 3 SCC 193**, the Supreme Court ruled that all workers cannot be treated equally if they do not stand on the same footing regarding participation in an illegal strike. Therefore, workers cannot be dismissed uniformly when their actions and responses to allegations vary.

Similarly, in **Mgmt. Oriental Tpt. Ltd vs. S. T. Ramkrishna (2006I LLN 598),** workers who were dismissed after being found guilty of misconduct during a strike were granted relief by the High Court of Karnataka. The court held that the alleged offenses were not directly related to the strike or its circumstances, indicating a need for a fresh consideration of the matter.

Regarding penalties for instigation under Section 27, penalties for providing financial aid under Section 28, and penalties for other offenses as outlined in Section 31, legal precedents such as **Bharat Petroleum Corporation Ltd. vs. Petroleum Employee's Union and Others (2003) III L.L.J. 229(Mad) and India General Navigation and Railway Company Ltd and Another vs. Their Workmen (AIR 1960, SC 219)** establish that parties involved in illegal strikes may face imprisonment, fines, or other penalties as prescribed by law. Additionally, workers engaged in illegal strikes may forfeit their entitlement to wages or compensation and could be subject to disciplinary action, including discharge or dismissal, as determined by the circumstances of the case and relevant legal provisions.

CONCLUSION

"Work for the glory of your country and countrymen speaking different dialects. Give due respect to the faiths and aspirations of the people. Countless are the resources of Mother Earth, from whom flow the rivers of wealth in hundreds of streams, Worship mother land as you worship God. From time eternal, the Mother Earth is giving life to her children-you owe debt to Her." ……....Atharva Veda. 12.1.45.

The foundational principles of Indian society, deeply rooted in ancient texts like the Atharva Veda, underscore a collective commitment to the nation's greater good and the welfare of its diverse populace. Ginsburg's conceptualization of society as an organized collective striving towards specific objectives further highlights the communal fabric upon which societal structures are woven. Embedded in Vedic teachings, the notion of individual duty towards

society has been upheld since antiquity, recognizing the intrinsic link between individual welfare and the well-being of the collective.

The evolution of societal norms, particularly amidst the backdrop of industrialization, has reshaped the dynamics between employers and employees. From the ancient Vedic era to the industrial age, the concept of 'dharma'—or righteous duty—has guided societal conduct, prioritizing duty over individual rights. This duty-centric ethos, reinforced by religious and legal mandates, has significantly contributed to societal advancement.

However, the advent of mechanization during the fourteenth century precipitated profound changes, not only in economic structures but also in societal dynamics. Industrial disputes between employers and workers became more frequent as economic interests collided. The concept of 'strike,' albeit in varying forms, emerged as a means of collective action to address grievances.

The definition and ramifications of 'strike' have evolved over time, mirroring shifts in socio-economic landscapes. Initially conceived as a mechanism for workers to exert pressure on employers, strikes later expanded to include exerting economic pressure on governments as well. Nevertheless, the original intent of strikes has sometimes been diluted, with the tactic being exploited for diverse interests beyond Labour rights.

Legislative provisions, such as those delineated in the Industrial Disputes Act of 1947, have sought to regulate strikes and strike a balance between the rights of workers and broader societal interests. Proposed amendments to existing laws and the implementation of measures like 'works committees' aim to address the complexities surrounding strikes.

Despite legal frameworks, strikes remain contentious issues, impacting various stakeholders differently. While workers exercise their legal right to strike, employers and governments often grapple with economic and administrative challenges. The judiciary assumes a critical role in adjudicating disputes and upholding the rule of law, albeit occasionally encountering criticism for its rulings.

Ultimately, the repercussions of strikes transcend the immediate parties involved, affecting the general public and societal harmony. Striking a balance between Labour rights and broader societal interests necessitates a nuanced approach, emphasizing dialogue, mediation, and

timely resolution of disputes. Suggestions such as limiting strikes before elections and instituting works committees aim to mitigate the impact of strikes on essential services and cultivate improved Labour-management relations.

While the right to strike is acknowledged as a legal prerogative, its exercise must be carefully weighed against the broader societal good. By fostering a culture of dialogue, adherence to legal frameworks, and a dedication to collective welfare, India can navigate the intricacies of industrial relations while upholding its ancient ethos of duty towards societal well-being.

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