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Stricks And Lock Out Under The Industrial Dispute Act 1947

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Abstract

The Industrial Disputes Act, 1947 is central to governing industrial relations in India, especially regarding strikes and lockouts. Strikes defined in Section 2(q) are collective work stoppages by employees to protest issues like pay and working conditions; although legally acknowledged, they are not a fundamental constitutional right and must follow specific procedures to be lawful. Lockouts are employer actions that withhold work or close workplaces to counter strikes and weaken workers' bargaining strength. The Act prescribes penalties for unlawful strikes and lockouts, but the sanctions often affect employers less severely than workers, raising questions of fairness. Court decisions (for example in cases such as Tata Iron & Steel Co. Ltd. v. Their Workmen and The Workers of Delhi Cloth and General Mills Co. Ltd. v. Management) stress procedural compliance but also show how these rules can disadvantage workers because of power imbalances. Although the Act aims to balance employer and employee interests, its application has sometimes favored employers, suggesting a need for reforms to ensure fairer, more equitable outcomes for all parties in industrial disputes.

Keywords: *Industrial Disputes Act, 1947, strikes, lock-outs, collective bargaining, industrial relations, labour law, conciliation proceedings, prohibition of strikes, public utility services,*

1.Introduction

Industrial relations often entail disputes between workers and management over issues such as pay, working conditions, job security, and collective rights. Strikes serve as a form of economic pressure where employees collectively halt work to influence management's decisions. On the other hand, a lockout is a tactic employed by employers to shut down a workplace or deny employment in order to compel acceptance of specific terms. Both strikes and lockouts are regarded as valid instruments within industrial democracy, facilitating negotiations when collective bargaining efforts prove unsuccessful. Nevertheless, neither strikes nor lockouts are considered inherent rights; they are instead defined as statutory rights governed by the Industrial Disputes Act of 1947 and judicial interpretations.

2.Definition of Strike and Lockout

According to Section 2(q)¹ of the Industrial Disputes Act, a strike is defined as a “cessation of work by a group of individuals employed in any industry acting in unison, or a coordinated refusal to work, or to accept employment.” This definition includes three key components:

- A collective work stoppage,
- An unwillingness to fulfill assigned tasks,
- An unwillingness to accept job offers.

Strikes can arise for numerous reasons, including wage discussions, infringement of labour rights, worker victimization, political influences, safety issues, or opposition to restructuring. They can take different forms such as sit-ins, slow-downs, hunger strikes, or stay-in strikes based on union tactics.

Lockouts, as defined in Section 2(l)², refer to the temporary closure of a workplace or the refusal to provide work, aimed at countering employee pressures or reinstating managerial authority. While strikes represent employee resistance, lockouts are strategies used by management to compel negotiations on terms that favor employers. For both to be considered valid, they must adhere to statutory requirements; failing to do so may result in penalties under Section 26.

3. HISTORY

The phenomenon of collective labour action is ancient and has evolved significantly over millennia,

¹ Industrial Disputes Act 1947, s 2(q)

² Industrial Disputes Act 1947, s 2(l).

shaped by social, economic, and political transformations.

3.1 Early Instances and Pre-modern Origins

3.2 The Industrial Revolution and Rise of Trade Unionism

The Industrial Revolution (late 18th – early 19th century) transformed work from artisanal and agrarian forms to mechanized, factory-based production. Mechanization, urbanization, and the commodification of labour accelerated exploitation: long hours, unsafe working conditions, child labour, and minimal wages became common.³ As a response, workers began organizing themselves; informal stoppages gave way to more organized strikes. The inadequacy of individual action in the face of capitalist factory-owners led to the birth of trade unions, which sought to negotiate collectively for wages, working conditions, and job security.⁴

In Britain, the first widespread labour movements and strikes laid the foundations for modern labour law and collective bargaining structures. These early movements were often met with repression, but gradually galvanized public opinion and political action in favour of regulation.⁵

3.3 Transmission of the Common Law Model to Colonial India

Under British colonial rule, India's emerging industrial sectors, including plantations, railways, jute mills, and textiles, adopted the British factory model. As a result, the social and economic issues that led to labor unrest in Britain, such as exploitation, wage conflicts, and poor working conditions, also resonated in India. Early worker protests and strikes originated in textile mills and along railway lines.⁶ Workers drew inspiration from the British trade union model. The colonial government responded with regulatory measures instead of outright bans: starting with ad-hoc directives and eventually moving towards gradual legal acknowledgment of strikes and unions. However, colonial laws remained ambiguous, attempting to strike a balance between suppressing unrest and regulating labor.⁷

³ E.P. Thompson, *The Making of the English Working Class* (Penguin 1963) ch 6.

⁴ Eric Hobsbawm, *Industry and Empire: From 1750 to the Present Day* (Penguin 1999) 112–124.

⁵ David Montgomery, *Strikes in Nineteenth-Century America* (Cambridge University Press 1987) 15–33. (Illustrates broader industrial strike evolution globally.)

⁶ David Montgomery, *Strikes in Nineteenth-Century America* (Cambridge University Press 1987) 15–33. (Illustrates broader industrial strike evolution globally.)

⁷ Biswamoy Pati (ed), *Living the Colonial Legacy: The Indian Working Class and Colonialism* (Oxford University Press 1999) 42–65.

3.4 Pre-Independence Strike Movements in India

In the early 20th century, strikes became increasingly associated with the nationalist movement. The Bombay Textile Strike of 1928, which saw the participation of tens of thousands of mill workers, emerged as a significant symbol of organized labor demanding rights against colonial exploitation. Subsequently, the 1946 Royal Indian Navy mutiny and general strikes in port cities illustrated the strengthening unity between industrial labor and nationalist agendas.⁸

These strikes were often more than just economic actions; they frequently blended with political protests against colonial authority. On occasion, the nationalist leadership supported labor demands, merging the quest for economic justice with the struggle for political freedom. This duality emphasized the difficulty of separating the colonial exploitation of labor from the broader political fight for independence.⁹

3.5 Post-Independence and Enactment of the Industrial Disputes Act, 1947

Following Independence, India was left with a fragile industrial regulatory system. The necessity to reconcile economic development, industrial stability, and labor welfare led to the creation of the Industrial Disputes Act in 1947.¹⁰ This law established formal mechanisms for resolving disputes, such as conciliation, adjudication, and collective bargaining, and legally defined the concepts of strikes and lockouts. The legislative approach transitioned from random repression to regulated industrial relations: strikes and lockouts were no longer solely considered criminal activities but legitimate forms of collective bargaining, subject to procedural safeguards.

This Act signified a significant shift, acknowledging the class aspects of industrial labor and embedding legal protections to address industrial conflicts. Over time, this framework formed the foundation of labor law in India.

3.6 Major Post-Legislative Strike Trends: Unionisation, Public Sector, and Economic Liberalization

In the years that followed the Act, India experienced multiple waves of industrial actions, in both public and private sectors, often driven by wage disputes, layoffs, privatization, and relaxations of labor laws. Numerous large-scale strikes in railways, public sector enterprises, and textile mills continued to reflect

⁸ Sumit Sarkar, *Modern India 1885–1947* (Macmillan 1983) 671–678 (on 1928 Bombay textile strike).

⁹ Sekhar Bandyopadhyay, *From Plassey to Partition and After: A History of Modern India* (Orient BlackSwan 2004) 253–254 (on 1946 naval mutiny and general strikes).

¹⁰ Industrial Disputes Act 1947 (India).

the ongoing tensions between labor and management.¹¹ Strikes in the public sector were frequently politically charged, considering the dual role of the State as both employer and regulator. Courts often intervened, striving to balance the socio-economic rights of workers with public interest and economic stability.¹²

Since the economic liberalization of the 1990s, factors such as increasing outsourcing, the informalization of labor, and a weakening of trade unions have significantly changed the landscape of collective bargaining. Strikes in formal sectors have diminished, while they have surged in unorganized and informal sectors, where legal protections are inadequate. The nature of industrial disputes is evolving from factory-based stoppages to strikes by contract labor, protests for job security, and demands for social security.

3.7 Comprehending this historical development is crucial for several reasons:

- It demonstrates that collective labor action is a long-standing response to labor exploitation rather than a modern anomaly.
- It showcases how the presence (or absence) of legal recognition influences the nature of industrial protests, suppression often results in spontaneous, frequently violent unrest, while regulation fosters negotiation.
- It highlights the evolving nature of labor, from formal factory employment to informal contract labor, affecting how strikes and lockouts operate in contemporary contexts.
- It offers context for assessing whether the current legal framework is adequate in addressing present-day labor challenges, especially considering economic liberalization, informality, and shifting labor demographics.

4. Significance of study

Industrial conflicts today extend beyond employer–employee relations and have national economic implications. Strikes in essential services can impair transportation, communication, banking, healthcare, and public utilities, affecting productivity, investment, and social welfare. Modern labour legislation must balance economic development with safeguarding labour rights. The National Commission on Labour (1969 & 2002) emphasized structural reforms, recommending improved conciliation, collective bargaining frameworks, and regulation of strikes in essential services. In the

¹¹ A.M. Shah (ed), *Industrial Relations in India* (Oxford University Press 1994) 225–241 (analysis of post-liberalization labour unrest).

¹² R. Nagraj, 'Labour Unrest and Economic Reforms in India' (2003) 38 *Economic and Political Weekly* 3205, 3207–3212.

context of global competition, privatization, and the introduction of the Labour Codes (2020), studying the evolving legal framework becomes crucial to evaluate how effectively industrial peace is maintained while ensuring labour welfare.

5. Methodology

This research adopts a doctrinal analytical methodology using secondary data from statutory materials, judicial decisions, scholarly articles, labour reports, and trade union records. Empirical insights were gathered from observations of strike activity during the Andhra Bank employees' protest in Guntur district through informal discussions with employees, executives, and customers. Interviews and field investigation provide practical understanding of the power dynamics influencing industrial actions. This hybrid approach allows both theoretical and practical assessment of strike behaviour and legal consequences.

6.General Prohibition of Strikes and Lock-outs

The Industrial Disputes Act, 1947 lays down strict restrictions on the commencement of strikes and lock-outs in order to maintain industrial peace and prevent disruptions that may adversely affect productivity, public interest, and economic stability. The purpose of imposing such prohibitions is not to eliminate these tools of collective bargaining, but to ensure that they are exercised responsibly, and only after attempts at peaceful dispute resolution mechanisms have been exhausted. Therefore, the Act identifies specific situations where the law restricts both workers and employers from initiating industrial action.

6.1 Circumstances Where Strikes and Lock-outs Are Prohibited

Under the Industrial Disputes Act, workers and employers are barred from initiating a strike or lock-out in the following circumstances:

1. **When an industrial dispute is pending before a Conciliation Officer, Labour Court, Industrial Tribunal or National Tribunal:** Industrial action during adjudication or conciliation disrupts the statutory dispute resolution process and is therefore restricted. If a dispute is under judicial consideration, parties must await the outcome rather than exert pressure through

stoppage of work.

*This prohibition protects the integrity of dispute resolution institutions.*¹³

2. **When conciliation proceedings are ongoing before a Conciliation Board or Officer:** Since the very purpose of conciliation is peaceful settlement, resorting to strikes or lock-outs would undermine negotiation efforts.¹⁴
3. **When a settlement or award is already in operation and binding on the parties:** Once the parties have agreed to or been awarded terms, industrial action on the same matter is prohibited, ensuring stability for the duration of the settlement period.¹⁵
4. **When the statutory notice requirement has not been fulfilled,** especially in **public utility services** such as water supply, electricity, transportation, postal services and telecommunication. These sectors are essential for public welfare, thus stricter compliance is required, including a minimum notice period before a strike or lock-out may occur.¹⁶

These restrictions ensure that industrial action is not used impulsively, but as a last resort within a regulated legal framework.

6.2 Role of Conciliation Proceedings and Binding Nature of Settlements

The Supreme Court has clarified that even if only one trade union participates in conciliation, any settlement reached under **Section 18(3)** becomes binding on all workers in the establishment, not merely on the members of the participating union.¹⁷ Therefore, if the dispute under conciliation affects all workmen, the existence of conciliation proceedings itself becomes a legal bar against a strike. This prevents parallel industrial action that might undermine collective decision-making and negotiated compromise.

¹³ Industrial Disputes Act 1947, s 22(1)(a)–(d).

¹⁴ Industrial Disputes Act 1947, s 20(1).

¹⁵ Industrial Disputes Act 1947, s 23(c).

¹⁶ National Engineering Industries Ltd v State of Rajasthan AIR 2000 SC 469.

¹⁷ Industrial Disputes Act 1947, s 18(3).

6.3 Meaning of Industrial Establishment and Scope of Section 23

Section 23 applies only where the workplace qualifies as an industrial establishment, meaning a physical location where systematic industrial work such as manufacturing, production or processing is carried out. It corresponds to the definition provided under **Section 2(n)(ii) of the Industrial Disputes Act**.¹⁸

Section 23(c) is distinct in that it limits prohibitions to issues already covered by a settlement or award. Accordingly:

- A strike or lock-out on an issue already settled or adjudicated is prohibited.
- A strike or lock-out on a fresh or unrelated issue is not restricted under Section 23(c).

Thus, Section 23 imposes both general and issue-specific prohibitions.

6.4 Effect of Standing Orders and Contractual Obligations

Standing Orders govern employment terms in industrial establishments. Violation of Standing Orders may constitute breach of employment contract but does not automatically render a strike illegal. For a strike to be declared illegal under the Industrial Disputes Act, it must violate one of the specific statutory prohibitions outlined under Section 23.¹⁹ Therefore, breach of contract is not sufficient grounds to categorize a strike as illegal without statutory non-compliance.

6.5. Prohibition of Lock-outs

Section 22(2) imposes similar restrictions on employers concerning lock-outs, particularly applicable to public utility services. Unlike Section 22(1), no proof of breach of employment contract is required. If a lock-out is called during pendency of conciliation proceedings, or without the required notice, it becomes illegal.²⁰

Just as strikes cannot be initiated during statutory dispute resolution processes, employers cannot declare lock-outs while conciliation is pending on issues affecting the entire workforce.

¹⁸ Industrial Disputes Act 1947, s 2(n)(ii).

¹⁹ Industrial Disputes Act 1947, s 23(c)

²⁰ Industrial Disputes Act 1947, s 22(1).

6.6 Special Rules for Government Employees

Government employees do not enjoy the same freedom to strike as private-sector workers. Their right to strike is limited by administrative discipline and statutory service rules. Under **Rule 4-A of the Central Civil Services (Conduct) Rules, 1955**, government servants are expressly barred from participating in strikes or demonstrations related to employment matters. Similar provisions exist under state rules, including the **Bihar Government Servants' Conduct Rules, 1956**.²¹

The Supreme Court in **Kameshwar Prasad v State of Bihar** held that although government employees retain fundamental rights to free speech and association, participation in strikes may validly be restricted in the public interest.²²

6.7. Punishment for Illegal Strikes

Under **Section 26 of the Industrial Disputes Act**, penalties can be imposed for illegal strikes or lock-outs. However, labour jurisprudence recognizes the distinction between:

1. **Illegal but justified strikes**, and
2. **Illegal and unjustified strikes**.

A strike may be technically illegal due to procedural defects (e.g., lack of notice), yet justified due to compelling circumstances such as unfair labour practices or exploitation. Industrial courts assess justification based on fairness and reasonableness rather than procedural technicality.²³

6.8. Judicial Interpretation and Case Law

The judiciary has repeatedly affirmed the importance of statutory compliance, but has also recognized trade-offs between procedural legality and substantive justice, sometimes softening harsh consequences in the face of genuine worker grievances.

²¹ Central Civil Services (Conduct) Rules 1955, r 4-A.

²² State of Bihar v. Kameshwar Singh is AIR 1952 SC 252

²³ Industrial Disputes Act 1947, s 26.

- In *Tata Iron & Steel Co Ltd v Their Workmen*, the Court held that an action declared as strike or lock-out in violation of statutory provisions would be illegal and non-binding, leaving workers without entitlement to wages or benefits.²⁴
- However, in cases like *Crompton Greaves Ltd v Workmen*, the Court recognized that even an illegal strike could be “justified” depending on the circumstances , e.g., due to serious labour exploitation or denial of statutory benefits, and thus mitigation or lesser penalty may be granted.²⁵
- Courts also emphasise that mere breach of standing orders or internal service rules does not automatically convert a strike into an illegal strike under the Act , the statutory prohibitions must be breached.²⁶
- These judicial decisions collectively reflect a doctrine balancing **statutory order** with **equity and fairness**, recognizing that not all invalid strikes are morally unjust or deserving of draconian sanctions.

7. Challenges, Critique & Contemporary Relevance

- **Power Imbalance & Worker Vulnerability:** Though the law treats strikes and lockouts as regulated bargaining tools, procedural complexity and statutory restrictions often disadvantage workers more than employers, especially in essential services or during conciliation. This undermines the bargaining power of unions and weakens collective protection.
- **Risk of Employer Exploitation:** Employers may exploit statutory prohibitions to delay negotiation, or impose lockouts under pretext of dispute, causing greater hardship to workers who may lose jobs or wages while legal proceedings continue.
- **Informal and Unorganised Sector Exclusion:** The IDA and its prohibitory scheme primarily apply to formal industrial establishments. Given that a large portion of India’s workforce is in the informal sector, these protections (and restrictions) remain out of reach, leaving many workers unprotected.
- **Legislative Reforms & Labour Codes:** The enactment of the Industrial Relations Code, 2020 (IRC) has introduced new thresholds and procedural conditions for strikes and lockouts, which critics argue further curtail labour rights and tilt the balance in favour of employers.

²⁴ *Tata Iron & Steel Co Ltd v Their Workmen* AIR 1972 SC

²⁵ *Crompton Greaves Ltd. v. Workmen* is AIR 1978 SC 1489

²⁶ *Delhi Administration v Workmen of Edward Keventers* AIR 1978 SC 1232.

Conclusion

Strikes and lockouts form an important part of collective bargaining in any industrial setup, and ideally, they should be used only when no other solution is possible. When we examine lockouts closely, we can see that they influence workplace relationships, negotiation processes, and even the larger socio-economic environment. Whenever conflicts arise between employers and workers, employers sometimes use lockouts as a tool to safeguard their business interests. From the workers' point of view, a lockout can be very damaging because it leads to loss of income, financial stress, and a feeling of insecurity. But from the employer's perspective, a lockout may become necessary when major changes are needed in the organization, and workers are nets.