



**IN THEORY AND PRACTISE:
INDUSTRIAL DISPUTE RESOLUTION
MECHANISM IN INDIA**

By *Sargam Agrawal and Rishabh Tiwari*
From *School of Law, UPES Dehradun*

ABSTRACT

The problem of industrial disputes is very common and can be seen in almost every developed and developing countries of the world. Phase of Industrialisation has tended to create a hiatus between the management and workers, owing to the absence of workers ownership over means of production this gap has led to industrial friction and conflicts, which ultimately cause industrial disputes. Conflict resolution is very crucial part of any welfare state for well functioning labour market and industrial relations system. This paper highlights the legal and practical aspects of industrial disputes resolution mechanisms working in India.

Keywords- Industrial Relations, Industrial Disputes, Labour Law, ILO, ID Act, Industrial Tribunal, Disputes Resolution, Industrial tribunal, Collective Bargaining, Conciliation, Labour Court.

I. INTRODUCTION

The Industrial Disputes Act, 1947 (ID Act)¹ is a revised version of the Trade Disputes Acts aimed at providing machinery for investigation and settlement of industrial disputes. During the first few years of the

enactment, the employers had a reasonable degree of freedom to manage their affairs in their best suited manner for their organisation. Over the decades, Parliament has assumed the role of crusader of working class for no convincing reason which is evident from the staggering number and poor quality of amendments carried out in ID Act which ultimately distinguished the employer's right to manage their personnel. Dual government both at centre and state level went about modifying, inserting and repealing various provisions with no sense which resulted in instability and confusion.

With the advent of mechanical inventions came the industrial fiction and unrest. Therefore the modern industrialisation has been blessings as well as inherent evils to society. The immediate victims of these evils are the workers employed in the industries. Their efforts to eradicate such evils lead to serious disputes and conflicts with the employers. The outbreak of such disputes and conflicts is sometimes accompanied by a stoppage in the working of some parts of economic machinery.

After World War I brought a new dimension among the working class. The prevailing economic misery was expanded and aggregated which led to emergence of feeling of class consciousness amongst the working class. Workers carried on strikes and employers retaliated by declaring lock outs. Which resulted in violence in industrial peace. Therefore, a need was felt to enact legislations and statutes that could curb the increasing difference between the employer class and the working class.

¹ Industrial Disputes Act (Act XIV of 1947), 22 INDIA A.I.R. MANUAL 590 (1979).



After independence there was need that labour policy must emphasise upon self reliance on the part of workers. From independence till 1954, almost a decade till Shri V. V. Giri was the Labour Minister, all official enactment focused on self reliance of labour. An equally important and forceful approach had been preferred to put reliance upon the Government, thus, establishing the concept of 'Tripartism'. The system was introduced which paid reliance on three party approach, namely, the trade union representing the workmen, the employers, and the Government. Later the Five-Year Plans have also placed particular emphasis on the measures for the welfare of the workers and on the industrialisation of India. The Government has accepted the establishment of a welfare state, with economic policies based on the socialist pattern of society.

This paper deals with the industrial dispute resolution mechanisms which are functioning in India. To clearly understand the topic, we have explained various chapters such as what is industrial dispute, how the mechanism has been introduced in India, what was the need, etc. Most importantly, this paper covers the critical analysis of these mechanisms with the help of various data and research. It also tries to highlight the lope hole in the functioning. We have also tried to provide some suggestions and conclusion which can be proved beneficiary for the proper adjudication.

The objective of this research paper is to critically analyse the present system of resolving mechanism and provide suggestive measures for bringing reform in industrial

disputes. This examination was carried on utilizing doctrinal research. It included referring to books, case laws, various reports of commissions and committees, websites and articles. The methodology used for the project is analytical study approach with the critical analysis of the Industrial Disputes Act, 1947 and its mechanism. The project also ventures to seek the history of the emergence of trade laws in general and present a brief view on the changing notions about Industrial law.

II. LEGISLATIVE HISTORY

The importance of state in regulating trade and labour conditions are different in different society. State intervention in industrial matters has a long history in India. At the initials when British rule was prevalent, the rulers were mainly concerned with protecting the interest of employers because they were mostly Englishmen. The state policy was based of Laissez Faire police with selective intervention. However with passage of time and the growth of trade unionism in the United Kingdom, the pressure from the labour party and public opinion had influenced the government's attitude towards the working class and their problems.

The new era began with the establishment of International Labour Organisation (ILO) in 1919, and the increasing labour problems due to unchanged wages in the face of rising prices had their influence on labour policy of many countries. The formation of All India Trade Union Congress in 1920 had a great effect on the industrial relations policy of the government which led to increasing



State intervention in the matter of industrial and labour disputes.

The Trade Disputes Act, 1920, The Factories (Amendment) Act, 1922, The Workmen's Compensation Act, 1923, The Trade Unions Act, 1926 and the Payment of Wages Act, 1936 laid the foundation for the subsequent legislative development. The Trade Disputes Act, 1920 provided for Courts of Inquiry and Conciliation Boards and forbade strikes in public utility services without a months' notice in writing. However, the Act did not provide any machinery for settlement of 'Industrial Disputes'. Gradually it was repealed and replaced by Trade Dispute Act, 1929 which can be rightly stated as the commencement of 'systematic' state intervention in the settlement of industrial disputes. The act provided powers to government to intervene in industrial disputes.

The preamble of the Act was to provide conciliation machinery for peaceful settlement of Industrial disputes. It also provided a provision for ad hoc Conciliation Boards and Court of Inquiry. After the amendment of 1938, the act authorised the Central and Provincial Government to appoint Conciliation Officers for mediating and promoting the settlement of Industrial disputes. During the World War II, though the government made some rule under the stress of emergency but it proved an important step in development of Industrial law in country. Rule 81-A of Defence of India Rule gave powers to appropriate government to intervene in industrial disputes, appoint industrial tribunals and to enforce the awards on both sides.

Industrial Employment (Standing Orders) Act, 1946 made provision for framing and certifying of Standing Orders for service conditions. The Industrial Disputes Act, 1947² was passed incorporating principles of Rule 81-A of Defence of India Rule and some provisions of Trade Disputes Act, 1929. Another development was appointment of Royal Commission of Labour in 1929 (also known as 'Whitley Commission') which made a comprehensive study regarding problems faced by labours in India.

Post Independence, the government appointed the National Commission on Labour in 1966 under the Chairmanship of Dr. P. B. Gajendragadkar, former Chief Justice of India with members of representatives of industry and labour. Many of its recommendations were implemented. As the Indian Constitution was introduced, the subject 'labour' was included in Concurrent List, which means that both centre and state can legislate regarding Industrial matters.

III. INDUSTRIAL DISPUTES

Industrial Disputes Act enacted in 1947 was "to make provision for the investigation and settlement of industrial disputes, and for certain other purposes."³ It provides systematic institutes for prevention and settlement of disputes that arise in an industry. But we need to first understand how this act does define an industry and what is an industrial dispute? To understand

² Industrial Disputes Act (Act XIV of 1947), 22 INDIA A.I.R. MANUAL 590 (1979).

³ Preamble, THE INDUSTRIAL DISPUTES ACT, 1947 ACT NO. 14 OF 1947 1* [11th March, 1947.]



this we turn towards the definition of these terms-

1- Industry- Section 2(j)⁴ of the Industrial Disputes Act of 1947 defined industry as “any business, trade, undertaking, manufacture, calling of employers, and includes any calling, service, employment, handicraft, industrial occupation or avocation of workmen.” The definition is very broad and has failed to capture all organisations that may or may not come within this category. However, through various judgements⁵ given by High courts and Supreme Court has modified the definition. The amendment of Industrial Disputes Act, 1982 has also amended the definition. It defines industry as any systematic activity carried on by cooperation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature.”⁶

2- Industrial Disputes- Section 2(k)⁷ of the Industrial Disputes Act defines industrial dispute as “any dispute or difference between employer and employer, or between employers or workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person....”⁸ Normally workmen raise a claim which their employer refuses to honour. This claim comes under industrial disputes. A claim can also be raised by a works who have been fired or for some reasons have left the industry.⁹ There are cases where people get confused with collective disputes of workers against employers. But there are also cases where individual disputes are treated as industrial dispute as in *Western Co. v Worker's Union*.¹⁰ According to this judgment, an individual disputes can be termed as industrial disputes if it is taken up by large number of workers or registered Trade unions.

IV. VARIOUS MECHANISM OF INDUSTRIAL DISPUTES RESOLUTION IN INDIA

IV.I CONCILIATION

Conciliation a form of mediation is an attempt to bring two conflicting parties to a dispute through a passive approach. The

⁴ Industrial Disputes Act (Act XIV of 1947) § 2(j), 22 INDIA A.I.R. MANUAL 590 (1979).

⁵ Some Judgements in this regard are- *State of U.P VS Jai Bir Singh*, (2005) 5; *Executive Engineer (State of Karnataka) VS K. Somasetty*, (1997); *Tourism Department VS Industrial Tribunal, Kollam* (2005); *Bangalore Water Supply & Sewage Board VS A. Rajappa*, (1978); *Corpn. Of City of Nagpur VS Employees*, AIR 1960 SC 675: (1960) 1 LLJ 523; *Baroda Borough Municipality VS Workmen*, AIR 1957 SC 110; (*D.N. Bannerjee*) *Budge-Budge Municipality VS P.R.Mukherjee*, AIR 1953 SC 58.

⁶ *Industrial Disputes Act,1947 in P.L.Malik's Industrial Law*, Volume 2, Page 1986-1987, 24th Edition,2013, Eastern Book Company.

⁷ Industrial Disputes Act (Act XIV of 1947) § 2(k), 22 INDIA A.I.R. MANUAL 590 (1979).

⁸ *Industrial Disputes Act,1947 in P.L.Malik's Industrial Law*, Volume 2, Page 1986-1987, 24th Edition,2013, Eastern Book Company.

⁹ *Traingular Motors Ltd. VS Bombay Automobile Employees' Union*, 2 FJR 179 (LAT).

¹⁰ SCC 1 255 (1970); AIR 1970 SC 1205; (1970) 2 LLJ 256.



conciliator attempts resolve the dispute between the parties by influencing them to re-evaluate the issue with a give and take strategy yet along with his or her own perspective.

The industrial dispute act provides conciliation as an alternative and can be utilized either by appointing a conciliation officer or via constitution of a board of conciliation. Time limits i.e. of 14 days for conciliation officer and 2 months in case of board of conciliation has been prescribed by the act in order to advance the proceedings. The settlement arrived upon through such proceedings is binding upon the parties for the period as agreed upon by the parties or for 6 months. It shall be binding upon the parties until annulled by the parties. During the pendency of the conciliation proceedings, before a Board and for seven days after the conclusion of such proceedings, the Act prohibits strike and lockout. The convention allows either party to submit a request in writing to the conciliation officer in his district, requesting the officer to start the process.¹¹

The conciliation officers are ordinarily recruited to the state government services by way of public services examination. **Section 4 of the Industrial Disputes Act, 1947**¹², provides for the appointment of such number of persons as is deemed fit by the appropriate government. A conciliation officer may be appointed for a specified area or for one or more specified industries. All conciliation officers are to deemed as public

servants within the meaning of Section 21 of the Indian penal code. The conciliation officer relishes the power of a civil court and is expected to deliver the judgment within 14 days, which would be binding upon the parties to the dispute. The conciliation officer is empowered to inquire into the dispute and suggest possible solutions' to bring the parties into an agreement.¹³ His responsibility is an effort of mediation, and in the case of the private sector, his solutions need not be accepted by the parties.¹⁴

A single judge of Orissa High Court in *Kalinga Tubes Ltd v. Kalinga Tubes Mazdoor Sangh*¹⁵ has held that the conciliation officer can and should start conciliation proceedings as soon as he gets any information from any source about the existence or apprehension of an industrial dispute. There is nothing in the Act to show that the conciliation proceedings can be initiated by the conciliation officer only when he is formally moved by any of the parties. He has the jurisdiction to initiate conciliation proceedings as soon as he finds some material or information that an industrial dispute exists or is apprehended. Time limit of 14 days as prescribed by the act is rarely achieved as the strategy is to ascertain each parties' bargain and their actual position and to suggest advisable approach in order to settle the dispute.

¹¹ S. NAGARAJU, INDUSTRIAL RELATIONS SYSTEM IN INDIA 277-78 (1981).

¹² Industrial Disputes Act (Act XIV of 1947) § 4, 22 INDIA A.I.R. MANUAL 590 (1979).

¹³ Industrial Disputes Act (Act XIV of 1947) §§ 4(1), 5(1), 22 INDIA A.I.R. MANUAL 590 (1979); see also S. MEHROTRA, LABOUR PROBLEMS IN INDIA 623-24 (2d ed. 1976).

¹⁴ S. NAGARAJU, INDUSTRIAL RELATIONS SYSTEM IN INDIA 277-78 (1981).

¹⁵1981 Lab. IC. 277 (280) (Orissa)



If conciliation efforts are deteriorated the conciliation officer may call a meeting at a later date or submit a failure report to the appropriate government. The appropriate government may make a decision to refer the dispute to a Labour court or National tribunal for adjudication.¹⁶ The conciliation officer is normally the additional labour commissioner, or the labour commissioner of the state.

The major advantage of conciliation is that the appropriate government has the authority to prohibit any strike during the pendency of conciliation proceedings.¹⁷ Employers tend to use conciliation mainly because strikes may be banned, and even if not banned, the strike that continues during the pendency of conciliation proceedings becomes an illegal strike. In an illegal strike, workers will not receive any payment; even if it is found that the strike would have otherwise been “justified” thereby permitting the workers to demand payment.¹⁸ However, if a settlement is reached in the course of conciliation proceedings, it is a binding settlement.¹⁹

IV.II ARBITRATION

Arbitration is a process similar to conciliation, where just like conciliation

matter is referred by the parties to a dispute to a impartial party in order to arrive at a acceptable settlement. This method is different from conciliation because the judgment is given by the third party in the former whereas parties themselves come to an agreement in the latter category.

Section 10(a)²⁰ of Industrial Dispute Act provides that parties may refer a matter to arbitration at any time before the matter is referred for adjudication. The statute requires the parties to appoint an arbitrator through an agreement specifying the terms therein and the name of the arbitrator.²¹ Once the arbitration agreement is signed, the government has the power to terminate and prohibit any strikes and lockouts or the continuation of any strikes and lockouts in connection with the dispute. An arbitrator has the power to bind unions and workers who are not parties to the arbitration agreement if he is satisfied that the union represents the majority of the workers in the unit.²²

The arbitrators require both the parties to support their arguments in writing. After studying the case and arguments set forth by both the parties the arbitrator delivers his

¹⁶ Industrial Disputes Act (Act XIV of 1947) §§ 12(4), (5), 22 INDIA A.I.R. MANUAL 590 (1979)

¹⁷ Industrial Disputes Act (Act XIV of 1947) §§ 22, 23, 22 INDIA A.I.R. MANUAL 590 (1979).

¹⁸ Although the Act does not make any distinction between justified and unjustified strikes, subsequent cases have made such a distinction. Accordingly, a strike becomes “justified” when it occurs as a result of some illegal act by the employer, and the traditional methods of dispute settlement have proved ineffective. In such a justified strike, workers are paid for its duration. See generally 2 V. SUBRAMANIAN

¹⁹ Industrial Disputes Act (Act XIV of 1947) §§ 4, 11, 12, 22 INDIA A.I.R. MANUAL 590 (1979).

²⁰ Industrial Disputes Act (Act XIV of 1947) § 10(a), 22 INDIA A.I.R. MANUAL 590 (1979).

²¹ Generally, only one arbitrator is used. Occasionally, however, it becomes very difficult for both management and labor to agree on one neutral arbitrator. Consequently, they select two arbitrators who then select a third one to act as an “umpire.” The decision of the third arbitrator is final if the other two do not agree. Industrial Disputes (Central) Rules, 1957, reprinted in 2 V. SUBRAMANIAN.

²² Industrial Disputes Act (Act XIV of 1947) § 18, 22 INDIA A.I.R. MANUAL 590 (1979); see also P. MALIK



decision or a award. The said award is required to be published in the official gazette in order to get a legal validity.²³

While employers and employees may agree to resolve the dispute through an arbitrator who is a private individual, the parties cannot exercise the same freedom with conciliation. A private individual acting as a conciliation officer does not have the powers of the conciliation officer appointed by the government.

Binding Value of an Arbitration Award

According to Section 18²⁴ of the Industrial Disputes Act, 1947, the arbitration award becomes binding once it is enforceable on those parties who refer the disputes to the Arbitrator. An arbitration award whose notification has been issued under Section 10-A shall be binding on the parties to dispute. A settlement within the meaning of section 18(3)²⁵ is binding on both the parties and continues to remain in force unless the same is altered by another settlement.

Voluntary arbitration

Section 10(a)²⁶ of the Industrial Disputes Act, the parties may agree to refer the dispute to arbitration anytime before it is referred to adjudication. The Act provides

²³ An agreement or statute is not legally valid in India until it is published in the gazette of the central or state governments. Consequently, an award issued in January may not be implemented until March because there is generally a two to three month delay in the publication process. Industrial Disputes Act (Act XIV of 1947) § 17, 22 INDIA A.I.R. MANUAL 590 (1979).

²⁴ Industrial Disputes Act (Act XIV of 1947) § 18, 22 INDIA A.I.R. MANUAL 590 (1979).

²⁵ Industrial Disputes Act (Act XIV of 1947) § 18(3), 22 INDIA A.I.R. MANUAL 590 (1979).

²⁶ Industrial Disputes Act (Act XIV of 1947) § 10(a), 22 INDIA A.I.R. MANUAL 590 (1979).

that the parties to sign an arbitration agreement specifying the terms and agreement. Once it is signed, the Government has the power to terminate any strikes or lockouts. An arbitrator has a power to bind unions and workers who are not parties to the arbitration agreement if he is satisfied that union represents the majority of the workers in the unit.

The arbitration award is required by law to be passed to the appropriate Government. The award is then published in the official gazette thus obtaining legal validity.

IV. III COURT OF INQUIRY

Industrial dispute act establishes court of inquiry for the purpose of inquiring into a dispute and submit its findings to the appropriate government. The court of inquiry has powers at par to those of a civil court. Court of inquiry can be distinguished from the other forms of dispute resolution as it has certain validity and position in law and has a time limit of six months from the commencement of the inquiry within which it must submit its report to the appropriate government.²⁷ The government occasionally uses the courts to buy time or to cool off hot-headedness that might arise from an industrial dispute.

A court of enquiry is different from a Board of Conciliation. While the Board's basic objective is to promote the settlement of an industrial dispute, a court of enquiry is

²⁷ Although the statute provides for a fourteen day time limit within which conciliation should be affected, it is rarely enforced. In contrast, the six month time limit given to the courts of inquiry is generally always enforced. Industrial Disputes Act (Act XIV of 1947) § 10(c), 22 INDIA A.I.R. MANUAL 590 (1979).



primarily fact-finding machinery that aims at inquiring into and revealing the causes of an industrial dispute.

IV.IV LABOUR COURT

Labour court is one of the adjudication authorities set up under the Industrial Disputes Act, 1947 which was introduced by the amendment Act of 1956. Under Section 10(c)²⁸ of the Act, the appropriate Government may refer a dispute to Labour Court also for adjudication. The setting up of Labour courts is in the discretion of the Government. It is presided over by a person who has held a judicial position for not less than seven years or who has been a presiding officer of any Labour court for not less than five years with powers of civil courts.²⁹ The function of Labour court is to adjudicate upon the matters referred to them which are listed in the Schedule II³⁰ appended to the Act.

IV.V TRIBUNAL OR INDUSTRIAL TRIBUNAL

An Industrial Tribunal may be set up by the appropriate Government on a temporary or permanent basis for a specified dispute for industry.³¹ The tribunal consist of only one person in whole. The qualification for

appointment of Presiding Officer of a Tribunal is that the candidate should have been or is judge of High Court or has held the post of Chairman or Labour Appellate Tribunal for not less than two years or he is or has been judge or Additional District judge for a period not less than three years.³² Generally, matters of major importance are referred to the industrial tribunals. Therefore, appropriate Government may constitute one or more tribunal for matters relating as specified in second schedule or in third schedule.

IV.VI NATIONAL TRIBUNAL

National Tribunal can be set up by the Central Government. The matters are adjudicated which are in opinion of the Central Government involves a question of national importance or are of such nature that the dispute may affect the industrial establishment of more than one state.³³ The Central Government can make a reference to the National Tribunal. Where any reference has been made to National Tribunal, notwithstanding anything contained in the Act, no Labour Court or Tribunal has a jurisdiction to adjudicate it. It consists of only one person which is to be appointed by Central Government. A person who is qualified for appointment should be or has been a judge of a High Court. He has held the office of the chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes Act, 1947 for a period of not less than two years.

²⁸ Industrial Disputes Act (Act XIV of 1947) § 10(c), 22 INDIA A.I.R. MANUAL 590 (1979).

²⁹ Industrial Disputes Act (Act XIV of 1947) § 11, 22 INDIA A.I.R. MANUAL 590 (1979).

³⁰ The second schedule of the Industrial Disputes Act deals only with the following matters: the propriety or legality of an order passed by the employer under the "Standing Orders"; the application and interpretation of "Standing Orders"; discharge or dismissal of workmen, including reinstatements or grants of relief to workmen wrongfully discharged.

³¹ Industrial Disputes Act (Act XIV of 1947), 22 INDIA A.I.R. MANUAL 590 (1979).

³² The Industrial Tribunal is vested with the powers of a judge or magistrate in the civil courts.

³³ V. VENKATACHALAM & R. SINGH, THE POLITICAL, ECONOMIC, AND LABOR CLIMATE IN INDIA 103 (1982).



While referring a matter for adjudication the appropriate government cannot go into the merits of the dispute, The Govt, function is only to refer such dispute for adjudication so that the industrial relations between the employers and his employees may not continue to remain disturbed and the dispute may be resolved through a judicial process as speedily as possible.³⁴ If the appropriate Government decided that no reference is necessary, the Government cannot be compelled by issuing a writ to make a reference. The use of the word may shows that the power is discretionary and not mandatory. If in a particular case, the Government acts arbitrarily or contrary to law in refusing to refer a dispute to the Tribunal or Labour Court then such a refusal may be right ground for petition under Section 226 of the Constitution.³⁵

Industrial adjudication has also necessarily to be aware of the current socio-economic thought around; it must recognize that in a modern welfare state, healthy industrial relations are matters of paramount importance and its essential function is to assist the state by helping in the solution of industrial dispute, which constitute a distinct and persistent phenomenon of modern industrialized state.³⁶ In the language of Krishna Iyer J: Industrial jurisprudence does not brook nice nuances and torture some technicalities to stand in the way of just

solutions reached in a rough and ready manner. Grim and grimy life-situations have no time for the finer manners of elegant jurisprudence.³⁷

V. EFFECTIVENESS

How effective has the dispute settlement machinery been? We will try to understand by taking some databases. Below mentioned tables are provided by the Labour Bureau of India and was listed in Indian Labour Statistics in the year 1976.³⁸

Table 2 below gives incidences of strikes and man days lost for selected year until 1975.³⁹

TABLE 2
MAN-DAYS LOST PER 1000 WORKERS IN MANUFACTURING INDUSTRIES

Year	No. of man-days lost (in thousands)	Estimated Employment (in thousands)	Man days Lost Per 1000 Workers
1961	376	3716	1022 (100.0)
1963	2525	4146	609 (118.7)
1965	4756	4505	1056 (103.3)
1967	12401	4539	2732 (267.3)
1969	13297	4580	2903 (284.1)
1971	11343	4929	2301 (225.1)
1973	16152	5437	2971 (290.7)
1975	19682	5486	3588 (351.1)

Note: 1) Figures in brackets indicate the index on base 1961 = 1000.

2) Again, these are conservative estimates since the number of unreported strikes is large.⁹⁸

³⁴ Western India Mass Company Ltd. Vs. Western India Mass Company Workers Union, AIR 1997 Supreme Court 2005.

³⁵ The Govt, of India Vs. National Tobacco Company, AIR 1977 Andhra Pradesh 250.

³⁶ State of Bombay Vs. Hospital MazdoorSabha (1960)1 LLJ 251,257 (SC).

³⁷ Basti Sugar Mills Co. Ltd./ Vs. State of Uttar Pradesh (1978) 2 LLJ 412, 4129 (SC).

³⁸ The information for the table was compiled in 1976 by the Labor Bureau of India and listed in INDIAN LABOR STATISTICS.

³⁹ The information for the table was compiled in 1976 by the Labor Bureau of India and listed in INDIAN LABOR STATISTICS.



The table above clearly emphasis that the increase in industrial conflicts has in fact been more than proportionate to the increase in industrial employment. The data shows that the system has not been successful in preventing strikes and lockouts, although that was the intended purpose of the Indiscriminate Disputes Act.

The system has been more efficient in expeditiously terminating disputes once a strike has already broken out. The below attached table shows the percentage of strikes by durations for selected years.⁴⁰

TABLE 3
DURATION OF STRIKES

Year	>1 day	<1-5 days	6-10 days	11-20 days	21-30 days	30 days	Total No. of Disputes Resulting In strikes
1951	41.9	28.5	12.0	6.9	3.5	7.2	1001
1953	41.8	27.7	10.4	9.4	3.4	7.2	723
1955	37.4	25.4	18.5	7.3	2.7	8.7	1105
1957	36.6	30.0	12.6	9.3	4.4	7.1	1583
1959	39.8	26.9	12.8	6.6	5.0	4.7	1490
1961	31.2	32.2	12.5	10.2	6.0	7.9	1299
1963	36.1	35.6	13.6	6.2	3.8	4.7	1417
1965	31.2	30.8	13.3	9.6	5.6	9.5	1796
1967	26.2	29.0	13.8	12.2	6.5	12.3	2655
1969	27.8	28.3	12.4	16.2	6.7	10.0	2491
1971	25.4	25.1	14.8	15.3	5.8	13.6	2670
1973	24.7	25.1	12.2	13.4	9.7	16.7	3116
1975	22.6	23.0	13.8	11.0	6.2	23.4	1853

It must be clear that the duration of strike is not an absolute indicator of the labour department's effectiveness, because many of these strikes are solved without intervention by the labour department. And the large number of strikes lasting one day can be

⁴⁰ The information for the table was compiled in 1976 by the Labor Bureau of India and listed in INDIAN LABOR STATISTICS.

attributed to strikes and 'bandhs' called by politicians.

The most important is whether the industrial relations machinery is capable of resolving all disputes referred to it. The below attached table lists data on dispute disposal in seven major industrial states in our country i.e Maharashtra, West Bengal, Tamil Nadu, Bihar, Uttar Pradesh, Punjab and Haryana.

TABLE 4
RESOLUTION OF DISPUTES

Year	Referred for Conciliation	Failed at Conciliation	Referred for Arbitration	Referred for Adjudication
1967	33989	6852 (20.1)	200 (2.9)	3952 (57.6)
1968	36422	7446 (20.4)	69 (0.9)	3823 (51.3)
1969	30365	7322 (24.1)	131 (1.7)	4368 (59.6)
1970	21512	6377 (29.6)	133 (2.0)	3934 (61.6)
1971	38450	8962 (23.3)	280 (3.1)	6106 (68.2)
1972	29279	9520 (32.5)	124 (1.3)	5918 (62.2)
1973	45293	11588 (25.2)	93 (0.8)	8519 (73.2)
1974	48123	12182 (25.5)	109 (0.8)	7804 (64.0)
1975	46452	13488 (29.0)	152 (1.1)	9025 (66.9)

From the above data⁴¹ it shows that roughly thirty percent of the disputes that are referred to the department defy solution through conciliation. Arbitration seldom steps in to take over. Though adjudication is the only mechanism left to resolve these disputes at this stage, yet a substantial number are not referred. Therefore, approximately ten percent matters which came to labour department are abandoned. In absolute terms, between 3000-4000 disputes meet with this fate every year.

⁴¹ The information for the table was compiled in 1976 by the Labor Bureau of India and listed in INDIAN LABOR STATISTICS.



The explanation often given by labour authorities is that these abandoned disputes do not merit reference for adjudication because they deal with inconsequential issues or because the parties to the dispute have not seriously tried to reconcile their differences on their own or through conciliation. In that case, there must be other reasons why the parties are indifferent to the reconciliation of their differences.

The reason for this is partly found in the system itself. The system discourages vigorous bilateral collective bargaining because the parties tend to rely on the easily available alternative of government sponsored conciliation. The American system of mediation/compulsory arbitration has also been criticized in that it has a “narcotic effect” because parties tend to rely on third party intervention. Kannappan and Myers note that many conciliators tend to intervene too early in disputes, not giving the parties enough time to settle their differences through bipartisan negotiations. Additionally, the statutory provision of compulsory adjudication has caused labour and management to take a very legalistic view of industrial relations disputes. Consequently, there has been a “narcotic effect” leading to a marked preference for adjudication rather than bipartisan methods.

VI. SUGGESTIONS AND CONCLUSION

In the Indian Industrial relations system, the State plays a vital role in the regulation of industrial relations as a mediator and adjudicator. The Industrial Disputes Act, 1947 which provides for the legal framework for the Governments intervention in industrial disputes through conciliation and adjudication has not undergone any

major changes in this regard, despite the demands of various commissions and committees and labour unions. Following are the suggestion which the authors are providing which if taken into consideration; it will make the adjudication machinery more effective and efficient and ensure speedy dispensation of justice to the parties.

- 1- Various commissions and committees have made recommendation for changes in the Industrial Disputes Act, 1947 which laid emphasis in use of ‘collective bargaining’.⁴² A significant step was taken in 1966 by constituting a tripartite National Commission which recommended for establishment of Independent Industrial Relations Commission (I.R.C.S).⁴³
- 2- The Law Commission of India in its 122nd report recommended the restructuring of Labour Courts and Industrial Tribunals on the basis of the principle of the principle of participatory justice so as to generate confidence in the disputing parties. It suggested that Labour courts should be assisted by two lay judges drawn from rank of workmen and employers. And Industrial Tribunals should be composed of retired Supreme Court or High court judges and equal number of members from trade unions.
- 3- The Conciliation proceedings shall be conducted and concluded within the time prescribed by law under Industrial Disputes Act, 1947 i.e. 14 days.

⁴² Govt. of India Report of First National Commission on Labour, 1969, p. 327.

⁴³ Sunil Yadav; collective bargaining : A mode for the settlement of Industrial disputes, LLJ. III, 2008, p.p. 23-25.



- 4- The adjudicatory authority's i.e. Labour Courts and Tribunals shall be statutorily empowered to grant interim relief and to make interim stay order which includes directions to the parties to observe certain conditions during the pendency of adjudication.
- 5- The infrastructure facilities in the Labour Courts and Industrial Tribunals should be improved by providing modern equipments, trained personnel etc.
- 6- The adjudicators shall strictly adhere to the prescribed time limit at every stage of adjudication.
- 7- The adjudicators shall make proper use of interim relief so as to prevent parties from resorting to delaying tactics.
- 8- There should be a time limitation for raising the Industrial disputes as the undue delay in raising the concerns will lead to stale disputes which cannot be effectively adjudicated by Courts or Tribunals due to non availability of pertinent records or evidence or death of parties etc. Therefore, a limitation of 3 years shall be prescribed.
- 9- The settlement through the process of collective bargaining shall be promoted to reduce burden of adjudicatory bodies and recognition of Trade Unions shall be made statutory obligations for effective collective bargaining.
- 10- The presiding officers of the Courts or Tribunals should also be given proper holidays as the civil court judges are given

for their mental relaxation which results in effective adjudication of the case.

- 11- The High Courts and Supreme Court should not ordinarily grant stay order and their power should be restricted.

This article is designed to be an informative guide to the practical aspects of industrial dispute settlement in India. By providing the reader with information regarding the legal framework of industrial relations laws, this article should prove helpful to understand the reality of the effectiveness of the dispute resolution machinery. This article also demonstrates the salient weaknesses of Indian Labour legislation. Firstly, the legislation allows for a multiplicity of unions thereby resulting in an intense inter-union rivalry that generates a large number of industrial disputes. Second, the dispute resolution machinery has increasingly failed to bring about timely agreements and reduce the number of workdays lost due to work stoppages. Finally, there seems to be a need to encourage parties to use collective bargaining, rather than rely on third party dispute resolution.

Whether the Indian Government will introduce these changes or not is yet unknown. It is only a matter of time before the current industrial relations laws receive increased attention, since the labour relations climate also plays an important role in the decision of foreign investors to establish industries in India.
