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Striking Differences: How U.S. and India Navigate the Legal Terrain of Industrial Strikes

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ABSTRACT

This article traverses this history comparatively by focusing on the legal frameworks for strike laws in the US and the history and development of labor protections in India. The two authors will briefly trace their history and theorization before setting them in a broad jurisprudential context by placing them within historically foundational legislation relating to the right to strike, and outline some of the issues that have plagued their enforcement processes. In the US, the legislation that provides for the major governing of the law regarding labor strikes is called National Labor Relations Act (NLRA). The NLRA has recognized rights for labor, but it has highly constrained the exercise of labor rights. Similarly, labor's right to strike in India accrues in the Indian law embodied in the Industrial Disputes Act 1947 on the assumption that saying that workers' have right to strike also presupposes the possibility that if the labor's power is left unchecked, it is quite easy for labor actions to be at cross-purposes with bigger social good, and hence to make the issuance of a pre-emptive notice to give advance notice of a strike, and procedures to be complied with mandatory. The law-enforcing processes in these two systems have had their own set of problems; issues with processes of employer recalcitrance, politicization of strikes, and effective dispute resolution mechanisms among the more prominent ones. With the shift in the national economies due to more intense processes of economic globalization on the one hand and a greater emphasis on internationalization (following the example of a growing tendency post-World War II that began moving disputes out of courts towards adopting alternative dispute resolution or arbitration, a newer normative framework on science and social policy put forth by the International Labor Organisation)item with the ILO's frame of reference, these matrixes will be assessed for their relevance for changing employment policies and contemporary law-making. The history of law in both the US and India demonstrates that the labor law is an effort at continuous redrafting of the Chartists' maxim to balance labor rights with larger economic and social good.

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I. INTRODUCTION

From the mid-19th century onwards, industrial strikes have been a core element of labor relations history, representing a hammer that workers can swing over their heads to try to persuade employers to provide them with better terms of employment based on the fundamental principles of wages, working conditions, or job security. Industrial strikes involve some form of collective action in which a group of workers refuse to work in retaliation for some policy or decision that employers or governments have taken which they believe to be unjust and detrimental to their sustainability. The essential feature of the industrial strike is that it has the potential or actual effect of disrupting the usual course of economic activity, which in turn creates an economic lever by which it is possible to inflict economic pain, to put pressure on, or, perhaps, to talk.

The history of the industrial strike is filled with watershed moments that have had profound ramifications on the nature of labor laws and relations, and have also affected broader public perceptions of worker rights and corporate responsibilities. In the early 20th century, industrial strikes were generally met with violent resistance from employers and sometimes from government forces. Today, they are more often mediated by the rule of law than by raw force. There are different types of industrial strikes, such as general strikes, where a large proportion of the workforce in all or most sectors suspend their work; or, for example, sit-down strikes, where workers stay on the premises but do not work. The type of strike is determined by the workforce's objectives, the legal environment and the socio-political context.

II. IMPORTANCE OF LEGAL FRAMEWORKS IN MANAGING INDUSTRIAL STRIKES

Legal dimensions regulating industrial strikes protect not only workers but also employers and the public legislatures and courts enact laws and regulations to achieve a proper balance, one that ensures the validity of the working peoples' right to strike as a form of protest, as well as the mitigation of its adverse effects on the economy, public welfare and the rights of others. So, what do the legal dimensions of industrial strikes entail? In short, legal frameworks provide ways for industrial conflicts to be settled. Instead of a prolonged state of conflict, they usually aim to preserve economic activities. Hence, laws and regulations not only safeguard the workers' right to strike but also regulate the scope of that right.

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Such a code does not exist under US law, which is based instead on one statute: the National Labor Relations Act (NLRA) of 1935. Indeed, labor law in the US can be considered a charter of workers' rights – and of limits. It gives workers the right to organised, to bargain collectively and to Stage Strikes – but strike actions are also frequently prohibited by the NLRA, which designates certain strike actions as unfair labor practices, and therefore illegal. Other laws specifically address public-sector employees whose services are fundamental and therefore limited in their right to Strike.

In contrast, in India, strikes are regulated under the Industrial Disputes Act of 1947 for 'industrial disputes', including strikes against employers. This Act mandates that Unions give notice and follow prescribed procedures before going on strike, to facilitate its resolution through arbitration and conciliation. Similarly, the Essential Services Maintenance Act of 1968 enables the government to prohibit strikes in 'essential services' to society. These legal frameworks reflect the importance of dialogue and the resolution of industrial conflicts through designated legal processes, acknowledging that, while industrial strikes might form part of a well-functioning labor relations system, their socioeconomic impact requires them to be subject to regulation. Indeed, the American and Indian legal landscapes on industrial strikes show a dynamic relation between protecting industrial relations on the one hand, and maintaining the public good on the other.

In both of these countries, case law has also mediated the content and application of these statutes, setting precedents for other labor disputes. In the US, the infamous ruling in NLRB v. Mackay Radio Telegraph Co. confirmed the right of the employer to hire substitutes for strikers as permanent replacements. This decision is one of the most consequential in tipping the balance of power in labor relations. Meanwhile, in India, Tata Engineering and Locomotive Co. Ltd v. Their Workmen helped underscore the workers' right to strike and the parameters of its viability in law. The picture becomes more complicated by the reality that the consequences of workers' slowdowns or plant closures in one country may well have effects that reach well beyond national borders. For labor-market stakeholders (whether workers, employers, or policymakers) to appreciate the legal environment in which industrial strikes are being planned, the rules of the game, including the relevant case law, must be understood.

Thus, the evolving nature of these legal regimes reflects continuing negotiations over the legitimate balance between the collective industrial action rights of workers and the broader rights and goals of society. As industrial economies and labor markets change over time, both the rights and goals, and therefore the proper balance, will evolve. Likewise, the legal regimes regulating industrial strikes must also evolve through continuing dialogue to ensure that the

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rights and responsibilities of all parties are adequately represented and protected.

III. HISTORICAL CONTEXT AND EVOLUTION OF INDUSTRIAL STRIKE LAWS

(A) United States

Early Labor Movements

A temporal perspective foregrounds how the history of industrial strikes in the US today remains inextricably enmeshed in the histories of the turbulent and often bloody 19th- and early 20th-century US labor movements. These movements helped create the legal and social landscape in which workers have come to be recognized as having rights – specifically, the right to organised collectively but also to strike. The industrialization of the late 19th century fostered a significant increase in profits for a greedier and more concentrated class of capitalists. But for workers, it also meant brutal conditions, long hours, and very low pay. The Great Railroad Strike of 1877, the Haymarket Affair of 1886 and the Pullman Strike of 189 this period that attest not only to the extremity of conditions for millions of workers at the time but also what they might be willing to do to seek redress.

When they did arise, mass employers and government authorities combined to break strikes with violence if necessary, or with statutes if not. Injunctions against labor movements to this day frequently prohibit striking as an unlawful activity. Even so, the early 'education of the public' about workers' conditions was an important element in bringing about legislatures to act on their behalf. The early decades of the 20th century saw a legal reckoning for US labor movements and industrial strike action fed by generations of labor unrest and a growing sense of justice that workers' rights were necessary to a fair and just society. Important statutory legislation provided the framework for these labor rights, with the law recognizing both the right to strike and sometimes also the right to try to regulate industrial action to prevent social and economic disruption.

- The Clayton Antitrust Act of 1914: One of the first antitrust laws to affect labor movements, the Clayton Antitrust Act began to formally state that nonviolent labor activities, such as strikes, were not subject to interpretation as illegal restraints of trade subject to the antitrust laws. This law made a substantial change to the broad, previously misapplied antitrust laws in a way that was favorable to labor unions and their activities.
- The National Labor Relations (Wagner) Act of 1935: The cornerstone of US labor law, the Wagner Act provided the legal basis for the right of workers to organised, the right to bargain collectively, and it enshrined the right to strike. The Act's framers sought to

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shift the balance of power between employers and employees by prohibiting some management practices targeted as unfair labor practices, and by creating the National Labor Relations Board (NLRB) to administer labor relations. It is the pivot point for labor law, entrenching the right to strike as a central aspect of the right to organised and bargain.

- The Taft-Hartley Act of 1947: Recognizing that radical excesses and disruptive strikes were the most serious abuses of the protective measures set forth in the Wagner Act, Congress narrowed the principle of freedom of association in response to the demands of the interest-bargaining ethos. The Taft-Hartley Act (named after Robert A Taft and Fred A Hartley Jr, the Senate and House's chief sponsors) amended the Wagner Act by restricting the right to strike on capacity grounds (national emergency strikes), intra-union capacity grounds (jurisdictional strikes), and 'business-civilian' relations grounds (secondary boycotts). The Act also brought about an 'unfair labor practice' strike. Although denounced by labor as an assault on workers' rights, the Taft-Hartley Act was adroitly crafted to balance the right to strike with concerns of the mutual welfare of all. It is this piece of legislation that founded the modern legal regime for regulating industrial action, which remains largely unchanged to this day.

These trends mirror the broader story of the maturation of US labor law from a more adversarial, to a more bipartite, institutionalized, and interiorized workers' rights, employers' rights and public interest stage in the evolution of industrial relations law. The pendulum of private interest and public good remains staggeringly lopsided on labor law, especially the right to strike.

(B) India

Pre-Independence Era

The history of industrial strikes in India and legal regime governing them can be traced back to the pre-independence period characterized by embryonic movements of labor organised within larger movements against colonial domination. First organised movements of workers in India took place during the British colonial period in the late-19th and early 20th century. They were fought over such oppressive conditions of work in a country where most mills and factories were 'dark, dangerous and depressing'.

The first strike in Indian history was in the Bombay textile trade in 1877, setting the precedent for collective action against employers. But the most turbulent times for labor were after the First World War. As socialism swept the world, the Indian freedom movement began to tap into the popular patriotic sentiment of the time. The most important strikes of this period were the

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Bombay textile strike of 1919, and the railway strikes of the 1920s, which apart from being labor agitation, were also aimed at the cause of freedom.

The colonial context for industrial action, before independence, was one of severe legal repression. Colonial governments' responses to industrial action and labor unrest were largely coercive, using state powers such as violence (police force) and arrests and other repressive laws to undermine strikes and labor action, with legislated prohibition of picketing and boycotts. The first landmark legal protection for industrial action was the Trade Disputes Act 1929, which, although providing for the adjudication of industrial disputes, leaned heavily in favor of employers and was about as much prohibition of strikes as it was about the protection of workers.

Post-Independence Legislation

The shift from colonial rule to the formalities of an independent India in 1947, notwithstanding all its other legal and socio-political implications, had a transformational impact on industrial relations, especially the right to strike. The newly formed Indian state was ideologically committed to social justice and labor welfare, a commitment codified in its Constitution as well as a series of parliamentary legislations.

- Industrial Disputes Act of 1947: Shortly after independence, Industrial Disputes Act (IDA) of 1947 (Indian legislation, no. 10 of 1947) was passed and remains the bedrock of industrial relations law in India. The Act established a framework for the investigation and settlement of industrial disputes, such as strikes and lockouts. The IDA requires unions to issue notice before striking and restricts striking in public utilities. Although the IDA placed limits on the right to strike, it was a significant improvement over the colonial-era laws, which focused on disciplining workers and offered little in the way of avenues for dispute resolution.
- As the Factories Act of 1948, considered by some to be the second-most-important piece of labor legislation in the post-IDA period, would demonstrate, although this Act did not deal directly with the issue of strikes, it did regulate various causal factors underlying industrial unrest both by setting standards in areas relevant to working conditions, hours of work and occupational safety and, by implication, for striking itself.
- Essential Services Maintenance Act (ESMA) 1968: The ESMA is the harsher of the two pieces of post-independence strike legislation, introduced to maintain the standard of essential services that were vital to the community, and have been invoked to ban action in areas such as health services, transport, utilities and services.

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The trajectory of evolution of industrial strike laws in independent postcolonial India, starting from the pre-independent 'sound' labor control legislation of the repressive colonial government, shares significant features with the broader socio-political transformations of the country, from an imperial regime of colonial subjugation to a democratic constitutional system upholding the values of social welfare.

The industrial injury to the State case law too has influenced the legal regime of the industrial strike. The All-India Bank Employees' Association v. National Industrial Tribunal, which upheld the right to strike by holding that such a right was conceded in the principle of the IDA, also specified the boundaries for the exercise of this right in terms of the imperatives of collective bargaining in industrial relations. The relevant parts of the Supreme Court's jurisprudence on industrial strikes have shown, at the same time, that such a right cannot arise from an immanent recognition of the right to strike as a fundamental liberty, as in T K Rangarajan v. Tamil Nadu Government.

IV. LEGAL FRAMEWORK GOVERNING INDUSTRIAL STRIKES IN THE UNITED STATES

Wide rules govern industrial strikes in the US, both through general laws and very specific, legally enforceable rules. Among the general rules are the National Labor Relations Act (NLRA) and the rules articulated and enforced thereafter by the National Labor Relations Board (NLRB). The legal rules for striking are clearly articulated in the law, spelling out the rights and proscriptions and protections that each side has.

(A) The National Labor Relations Act (NLRA) and its Provisions

The National Labor Relations Act (NLRA), passed in 1935, is the keystone of US labor law. Known as the Wagner Act for its chief sponsor, the New York senator Robert F Wagner, it provides protection to employees and employers alike, seeks to promote collective bargaining, and looks to eliminate 'labor and management practices detrimental to the health of industry' by 'insuring to employees the full freedom to organize, to select representatives of their own choosing, to negotiate contracts, to engage in concerted activities, and to take… concerted action necessary to effectuate the purposes of this Act'.

Key Provisions Relevant to Industrial Strikes:

Section 7 of the NLRA provides 'employees shall have the right to self-organization, to form, join, or assist labor organisations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.' This piece of law is central to the right of workers to strike.

Section 13 explicitly states: 'Nothing in this Act, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike.' This clause only strengthens the status of strike action as a method of collective bargaining.

(B) Role of the National Labor Relations Board (NLRB)

The National Labor Relations Board (NLRB), one of the principal agencies of the industrial law of the United States, gets its idea, name and authority from the NLRA. Created by the NLRA, the NLRB is an independent federal agency charged with protecting the rights of workers to act collectively either to join or not to join a union, which also serves as the workers' bargaining agent. It prevents and redresses unfair labor practices by private sector employers and unions.

Regarding industrial strikes, the NLRB:

- Holds elections that can result in employers being obliged to enter into a contract to recognize a union chosen by their workers.
- Looks into unfair labor practices by employers or unions, including picketing.
- Serves as a judge in disputes among unions and employers over the meaning and application of collective bargaining agreements (including those concerning strikes).

(C) Restrictions and Protections for Striking Workers

Although the NLRA granted the right to strike, it also limits that right and defines protections for workers who go on strike.

Restrictions

- Prohibition of Unfair Labor Practice Strikes: Strikes directed at inducing an employer to commit an unfair labor practice are prohibited.
- No-Strike Clauses: The NLRA permits agreements wrapping up collective bargaining agreements to offer no-strike clauses that might want to stop the union from going on strike through the cycle of the contract.
- Strikes Declared a National Emergency: The president of the United States may criminalize strikes causing a national emergency, possibly subject to a judicial order of injunction not to strike for 80 days.

Protections

- Protection from employer retaliation: While going on a lawful strike, a worker is protected by the law from employer retaliation, such as termination of employment or

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discrimination. It is deemed an unfair labor practice by the NLRA for an employer to terminate an employee for striking.

- Right to Reinstatement: A worker who is fired for participating in an economic strike (i.e., a strike for better wages, hours or working conditions) has a right to be reinstated at the end of the strike but is replaceable during the strike. However, a worker who is fired for participating in an unfair labor practice strike (i.e., a strike that protests illegal conduct by the employer) has a greater right to immediate reinstatement, even if replacements have been hired.

V. LEGAL FRAMEWORK GOVERNING INDUSTRIAL STRIKES IN INDIA

Industrial strikes in India take place in a law that is neither homogenous nor simple, but contains multiple layers of law, customs and protected rights. The pivot on which all these interlocking pieces turn is found in the Industrial Disputes Act of 1947 (IDA), passed only three years after India's independence: The Metropolis is full of rivulets of industrial feud … The time has come to lay the axe to the root of the grave cause of industrial strife, namely, the lack of a uniform Code and frame of reference for guide for resolving industrial differences. This Bill will undoubtedly do away with the causes of industrial strife to a large extent. It will promote productivity in industry, and foster cordial relations between employer and employee. There is a legal framework for the dispute settlement processes embedded in the Industrial Disputes Act. The IDA provides for stabilization, regulating procedures, and setting parameters for negotiations, arbitration and adjudication of industrial disputes..

(A) The Industrial Disputes Act, 1947: An Overview

The main aim of IDA is to maintain peace and harmony in the industrial sector by investigating and settling the industrial disputes. It is applicable to all industrial establishments, and it equally applies to all type of workers in all type of industries. It plays a vital role in the industrial relations of India.

Key Provisions Relevant to Strikes:

- Strike: For the purposes of the [Ida], strikes are defined as: 'any cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment'.
- Act: notice of strike: no strike shall be commenced except under the authority of a notice of strike given to the employer not earlier than six weeks and not later than fourteen

days before striking, or on any date not earlier than 14 days after the date of any such notice, and not later than forty-eight hours after the time when the date last mentioned becomes due.

- Prohibited periods: Strikes are prohibited during the pendency of any conciliation Proceedings before a Conciliation officer and for Seven Days after the Termination of such proceedings; during the pendency of proceedings before labor courts or tribunals; and during the pendency of any arbitration proceedings.
- Illegal strikes: strikes in violation of the act are illegal. The context gives four types of illegal strikes: strikes in violation of the notice requirements; strikes during prohibited periods; and strikes in establishments where the public utility service rules apply without the requisite notice.

Mechanisms for Dispute Resolution

In this way, the IDA sets out six channels for the settlement of industrial grievances with an eye towards avoiding or softening strikes: These are:

- Works Committees: These shall consist of representatives of the employers and the employees and shall lend themselves to the realization and the maintenance of orderly relations between the master and his man.
- Appointment of conciliation officers and boards for the settlement of industrial disputes between master and men by conciliation, with power in case no settlement is reached to refer the dispute to arbitration.
- Adjudication: The IDA sets up labor courts and industrial tribunals for adjudicating disputes with respect to industrial matters which can't be settled through negotiations or conciliation.

Role of Conciliation Officers and Labor Courts

Such conciliation officers and labor courts exist in the US and India, and play central roles in the resolution of industrial disputes, to keep or minimize the effects of strikes.

Conciliation Officers

Such conciliation officers normally function to preside over disputes between employers and employees, and facilitate negotiations to obtain a mutually agreeable settlement without recourse to strikes. Conciliation at the formative stage of a dispute, which is sometimes likelier to be resolved on terms that are acceptable to all parties to avoid the risk of a strike or a lockout,

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is quite a pivotal function of the trade-dispute regime. The role of conciliation officers in mediating industrial relations disputes in India are specified in the Industrial Disputes Act, 1947. According to Section 10 of the Industrial Disputes Act: Where there is in any industrial undertaking a dispute, or a question of disagreement, between the managers or owners, or other employers, on the one part, and workmen on the other part, relating to … any terms and conditions of employment, … such dispute or question of disagreement shall, before a strike or lock-out in respect thereof is declared, be referred by the manager or owners or other employer, to a conciliation officer and no strike or lock-out shall be declared by the managers or owners or other employer before such dispute or question of disagreement has … been the subject of a conciliation proceeding. The reference to the compulsory nature of conciliation proceedings in the context of potential strikes or lockouts in public utility services reiterates the prioritization of bargaining and mediation as avenues for resolving trade disputes.

Labor Courts

When conciliation fails to resolve a dispute, the parties can refer the matter to labor courts or industrial tribunals. Such judicial bodies decide on a range of labor matters, including unfair labor practices and strike/lockout disputes. India's Industrial Disputes Act establishes labor courts and industrial tribunals that hear and arbitrate disputes after conciliation efforts fail. In the US, the National Labor Relations Board (NLRB) serves as an adjudicating body that decides controversies arising between unions and employers, and whether strikes and other collective actions are legal.

(B) Legal Provisions for Strike Notice and Prohibited Periods

Strike Notice

Strike notice is required in both countries, although the details differ. It is meant to give warning to the employer that a strike is about to begin, and provide the employer with an opportunity to try to avoid the strike by sorting out the issue that has prompted the workers to take such an extreme action. The Industrial Disputes Act requires that, when there is a strike, notice of 14 days' must be given prior to the strike, to allow either party to take the dispute to an industrial conciliation officer or arbitration. This shows the preference of the law for resolving issues through dialogue rather than mere confrontation.

Prohibited Periods

As with the US approach, legal prohibitions on strikes are activated at specified times (i.e., at times when a strike would be especially injurious to the public interest or especially disruptive). It is illegal for Indian unions to strike either during the pendency of conciliation proceedings or

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for a period of time thereafter, though perhaps the most significant example is the ban on strikes while matters are pending before a labor court or tribunal. This provision is intended to encourage the use of adjudication to resolve disputes, rather than industrial action.

Their emphasis on reconciliation, the obligation for strike notice and the specification of prohibited periods for strikes show a legal approach that seeks to balance the right to strike and the imperative of industrial peace on the one hand, and the protection of the public interest on the other. It also pays lip-service to the reality of industrial relations, and the need for caution in seeking to balance the competing interests of workers, employers and the public.

VI. EMERGING TRENDS AND FUTURE DIRECTIONS

(A) Globalization and its Impact on Industrial Relations

Globalization has led to a significant redefinition of industrial relations, since the global integration of markets, the international mobility of capital and the internationalization of production chains gradually create new opportunities and challenges for workers and employers.

- United States: US experience with globalization has involved major changes in the economy, including a significant contraction in manufacturing jobs and a corresponding growth of both services and manufacturing (as well as info-tech). These come with their own consequences for labor law and labor relations. Unionism has tended to decline (but not disappear), and the form of conflict has changed. The difficulties of labor organizing and the strike action in a global economy led to unique efforts on the part of labor (e.g., transnational organizing and alliances with social movements), but also made traditional labor strategies more complicated, and the legal frameworks for industrial action more uncertain (e.g., what to do when a company outsources to countries with lower wage and more hostile environments to unions?
- India: With India's economic liberalization and increased global economic integration, rapid industrial growth accompanied by overwhelming foreign investment has favored a realignment of its labor market. The proliferation of informal economic activity and a vast expansion in the manufacturing and services sector, particularly information technology and telecommunications, have added new dimensions for industrial relations. The pressure of globalization has led India to drawn closer to international labor law standards including those governing standard working hours and holidays as well as plant closures, leading to wider contentious debates on India's labor law reforms. The Indian discourse on industrial strikes and labor law reform has often pitted the need

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to attract foreign investment against protecting the rights of the workers.

(B) The Shift Towards Alternative Dispute Resolution (ADR)

The growing popularity of ADR mechanisms can be considered a broad trend that reflects a clear move in how industrial disputes are increasingly managed, shifting from adversarial to more collaborative methods.

- United States: In the US, the increase and establishment of ADR mechanisms for labor disputes has been significant: there has been a clear movement to the use of mediation and arbitration for labor disputes. The Federal Mediation and Conciliation Service (FMCS) plays a strong role in mediating these processes by providing mediation for labor disputes and fair practices. The advantages of ADR are a fast resolution of a dispute, confidentiality of the proceedings, and the possibility of a less adversarial process, which can maintain and even improve labor – management relations. Concerns regarding the judicial enforcement of arbitration agreements, and the question of the fairness of arbitration, have been the subject of intensive debate and litigation.
- India: An international recurring theme is the growing acknowledgement in India of the value of ADR mechanisms in the arena of industrial disputes. The Industrial Disputes Act incorporates conciliation and arbitration as complements to the statutory machinery for the peaceful and expeditious settlement of industrial disputes. But traditionally ADR has been more honored in the breach – not so much because the parties or their organic groups resented the invasion of their right to strike but since the custom and culture of increased commitment to me are largely alien in relation to management and labor relations. However, ADR as part of the overall judicial reform project is increasingly seen as a remedy – effectively tackling the backlog of cases; alleviating the crushing burden on judges; and improving efficiency and helping victims. Yet the actual utility of ADR depends on whether it can build the trust of the new and emerging constituencies of workers, employers and trade unions in the efficacy of ADR institutions, just as the availability of a cadre of competent mediators and arbitrators who have a pulse on industrial relations are important and may grow.

(C) Legislative Reforms and Proposals

The union itself reacted to concerns about the demands of globalization and changes in economic sectors, and to the critique of existing legal schemes; as a consequence, the USA and India recovered lost ground through a plethora of legislative reforms and proposed reforms in the areas of worker protection and flexibility.

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- United States: A slew of legislative reform proposals over recent years provide protections for workers entering the labour market as they bargain for better wages and working conditions and adapt to the requirements of an evolving economy, such as the US Protecting the Right to Organize (PRO) Act, which amends protective categories of the National Labor Relations Act to effectively ban employers from union busting, classifying employees as independent contractors and entering into mandatory arbitration agreements where employees agree to give up class actions.
- India: Equally ambitious has been a series of reforms brought about through legislations. The labor codes are a set of four bills to streamline and modernize the existing labor laws related to wages, the industrial relations code, social security and occupational health, safety and working conditions. The codes are an attempt to consolidate the existing labor laws, update them to contemporary labor market realities, and find a balance between furthering the ease of doing business and protecting the rights of the working people. They have triggered debate about their potential impact on workers' rights and unionization.

(D) The Role of International Labor Organization (ILO) Standards

As such, the International Labor Organization (ILO), a United Nations agency, sets international labor standards, provides guidance on how to treat workers, and defines the right to organised and bargain collectively. The conventions and recommendations issued by the ILO carry weight worldwide, and are the templates for labor laws and practice in the US and India.

- Impact on United States Policy: In addition to the handful of ILO conventions taken up by the US Congress, ILO principles also serve as a touchstone for US policymakers and help shape labor policies and labor relations strategies. For example, the US state government in California and New York City have placed 'right to work' legislation on the November ballot, in part to prevent workers from organizing into independent unions to further their own economic advancement Priorities include freedom of association, the right to organised and join unions, a ban on forced labor, and eradicating the worst forms of child labor.
- Impact on Indian Policy: India has been proactive in ILO ratifications, bringing ILO standards into the national legal and regulatory framework. For instance, the recent labor codes and related reform processes are contingent on ILO standards, particularly pertaining to decent work, minimum wage and formalization of labor relations. The major task for impact is the ability to see the standards implemented on the ground and

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reach working populations.

VII. Conclusion

The finer details of the legal regime governing acts of industrial unrest in the US and India reflect various trade-offs between workers' interests and the interests of general economic stability and public welfare. In both countries, resulting legal frameworks bear the marks of past legacies, and have been largely conserved in specific legislation such as the NLRA in the US and the IDA in India. Both countries' broader frameworks of labor disputes, however, are only lightly sketched, leaving the details to be filled in by various tribunals and likely reflecting the competing interests of government and business behind them. Despite the frameworks and existing law governing workers' rights in the US and India, both countries encounter ongoing challenges in their systems, including enforcement problems, politicization and the suitability of mechanisms for dealing with unfair labor practices and bringing disputes to resolution in a timely fashion.

Despite being the gold standard of hard-won workers' rights to organised and strike in the US, the NLRA's promise is often under-enforced, due to employer discretions that are too broad, and to a judicial carve-out allowing for permanent replacement of striking workers as a matter of law. These practices, which both reduce the bargaining power of unions as well as discouraging workers from using their statutory strike rights to push back on unilateral labor decisions, undermine the strike as a core constituent mechanism within a labor relations system. Critiques of the National Labor Relations Board (NLRB), for example, have objected to perceived political influence, resourcing limitations, and judicial capture.

However, wishes do not have desirable on-the-ground consequences. For one, the IDA legal framework – generally (though not always) seen as having pro-industry biases, designed to encourage industrial peace and productivity, and then only in certain sectors – suffers from issues of administrative subnational (state) and sectoral non-standardization, underreporting and non-compliance, as well as inadequate enforcement mechanisms. Moreover, given that labor courts can reportedly take years for a case to be heard and settled – and that many workers do not perceive them as offering a fair hearing – the effectiveness of the IDA legal framework to ensure a degree of labor-protection and redress can remain uncertain.

The article emphasises the large role of the ulterior force of globalization and its effects on industrial relations in both countries. As time moves on towards an increasingly global economy, it becomes inevitable for the legal framework to be reformed so as to fit for the realities of labor. In the global business context, ADR has also been widely accepted. Most

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discussions on ADR have assumed that ADR practices would replace courtroom practices in resolving conflicts, thus a shift towards incumbent approaches that stray away from litigation and arbitration. Naturally, both ADR and the 'new way of labor relations will work only if workers and employers have enough trust. Additionally, more specially trained mediators are required.

Courtesy Knight Foundation: The future might see reforms and proposals like the US's Protecting the Right to Organize (PRO) Act, bringing labor law in line with a recovering workforce and a changing economy now dominated by service-sector workers. Legislative changes in India might be seen as revolutionary in their goal to update and codify labor laws. Concentrating 29 separate laws of work into four labor codes, India might be attempting to correct the faults of its past. While many of these reforms would see positive changes for workers like minimum wage payment, social security and fixed hours of work, many concerns that these reforms would undermine the labor and, as a consequence, workers' rights hold strong.

ILO standards play an important role in the formulation of labor policies in both countries through transnational influences. In this way, the idea of labor rights becoming internationalized becomes clearer, as they are based on both international norms and guidelines. Alignment with international standards shows the international nature of labor protection, and for this reason the dialogue and adaptation will continue.

To conclude, adjudicating the legal rights of industrial strikes raises constant negotiations and administrations to balance the interests of workers with those of economical and societal interests in the US and India. Looking forward, legislative reform is needed along with mechanisms for enforcement and international cooperation to set future courses of dealing with a globalized labor market by protecting the fundamental rights of workers and advancing their interests in an ever-evolving economy.

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