



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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THE ADJUDICATION TRAP: COLLECTIVE BARGAINING AND THE FAILURE OF THE INDUSTRIAL DISPUTES ACT, 1947

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ABSTRACT

The Industrial Disputes Act, 1947 was enacted during a period of state paternalism to establish a baseline of security for the Indian working class and maintain industrial harmony. However, as the Indian economy shifted from a socialist, state-controlled framework to a highly competitive, globalized marketplace, the structural mechanisms of the Act began to create unintended consequences. This paper critically examines "the adjudication trap" the process by which the Act shifts industrial conflict away from voluntary bipartite negotiations and into state-mandated, compulsory litigation.

By analyzing key statutory provisions including references under Section 10, the definition of an "industry" under Section 2(j), individual rights under Section 2A, and the stringent security measures of Chapter V-B this paper explores how expansive judicial re-interpretations and profound institutional delays have hindered the growth of mature collective bargaining in India.

Furthermore, the paper highlights a paradox: the rigid job security provisions intended to protect permanent employees have instead accelerated the casualization of labour, driving industries to rely heavily on unprotected contract workers. Ultimately, this study evaluates the ongoing transition to the unified Industrial Relations Code, arguing that modern industrial stability requires an agile, collaborative framework that balances corporate operational efficiency with the financial security and fundamental dignity of the workforce.

INTRODUCTION

The relationship between capital and labour has always been a delicate tightrope walk. On one hand, industries require a seamless, uninterrupted flow of production and organizational agility to remain economically viable in an increasingly cutthroat marketplace; on the other hand, workers require robust, enforceable legal protections against systemic exploitation, arbitrary dismissals, and inherently unequal bargaining dynamics. In India, the primary structural framework designed to manage this volatile equilibrium is the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act" or "IDA").

Enacted just months before India broke free from colonial rule, this piece of legislation was born out of a turbulent wartime economy where maintaining industrial peace was paramount for national survival and British war production. The post-independence era saw this emergency-driven framework integrated into India's broader socialist-leaning, welfare-state paradigm. However, as the Indian economy transitioned from a state-controlled, import-substituting model to a highly competitive, globalized market following the 1991 liberalization reforms, a fundamental structural tension emerged. While the Act explicitly aims to foster industrial peace through collective bargaining and amicable conciliation, its actual implementation has often created deep institutional rigidities. These rigidities trap both employers and workers in prolonged, adversarial legal battles, serving as a cautionary tale of how protective legislation can accidentally produce counterproductive economic and social outcomes.

LEGISLATIVE ARCHITECTURE: DIALOGUE TO INTERVENTION

To understand the systemic friction within the IDA, one must analyze its procedural architecture. The Act does not immediately thrust disputing parties into an adversarial courtroom. Instead, it creates an escalating ladder of intervention designed, at least theoretically, to prioritize internal settlement over external adjudication. Section 3¹ of the Act empowers the appropriate government to direct employers of large establishments (one hundred or more workmen) to constitute Works Committees. These committees, composed of equal representatives of the employer and workmen, are tasked with promoting measures for

¹ The Industrial Disputes Act, 1947 (Act 14 of 1947)

securing and preserving amity and good relations. This internal layer is supplemented by the appointment of Conciliation Officers under Section 4², who act as state-backed mediators tasked with investigating disputes and inducing the parties to come to a fair and amicable settlement.

The underlying philosophy of this initial tier is inherently noble: give the disputing parties a structured, neutral space to negotiate and reach a voluntary settlement. Collective bargaining where trade unions and corporate management sit across a table to hammer out terms of employment, wage structures, and safety protocols is widely regarded by labour scholars as the healthiest way to resolve industrial friction. It respects the functional autonomy of both sides and results in bilateral agreements (settlements under Section 12(3) or Section 18(1) of the Act)³ that both parties are naturally, texturally invested in upholding.

The judiciary historically recognized this foundational premise. In ***Premier Automobiles Ltd. v. Kamlekar Shantaram Wadke (1975)***⁴, the Supreme Court explicitly observed that the IDA was enacted to provide a specialized machinery for collective bargaining and the settlement of industrial disputes, creating remedies that lie entirely outside the traditional realm of common law and regular civil courts. The Court emphasized that the civil court's jurisdiction is impliedly barred when the dispute falls within the matrix of rights created under the Act, validating the legislature's intent to keep industrial relations out of ordinary litigious channels.

Yet, the moment conciliation fails, the character of the Act shifts dramatically from a collaborative forum to a paternalistic arbiter. When a Conciliation Officer submits a "Failure of Conciliation" report under Section 12(4)⁵, the matter moves to the political executive. Under Section 10(1)⁶ of the Act, the appropriate government holds the absolute discretionary power to refer an existing or apprehended dispute to a Labour Court or Industrial Tribunal for compulsory adjudication. This pivotal shift from voluntary negotiation to state-imposed arbitration is where the system's real structural friction begins. When an industrial dispute enters the realm of tribunals, the spirit of collective bargaining frequently evaporates. Instead of seeking common ground or pragmatic compromises, both management and labour instinctively retreat into deeply entrenched legal positions. The adversarial nature of litigation takes over, transforming what was fundamentally a socio-economic disagreement over

² Ibid

³ Ibid

⁴ 1975 AIR 2238

⁵ Ibid

⁶ Ibid

wages, welfare benefits, or operational conditions into a hyper-technical battle governed by strict legal precedents, evidentiary challenges, and procedural hurdles.

JUDICIAL EXPANSION

The adversarial trap has been heavily magnified by the vast definitional expansions engineered by the judiciary over the decades. Because the Act provides extensive protection only to "workmen" employed within an "industry," the legal boundaries of these terms have served as the primary battleground for industrial litigation. The most prominent example of this judicial intervention is the landmark seven-judge bench decision in *Bangalore Water Supply & Sewerage Board v. R. Rajappa (1978)*⁷. Prior to this ruling, the judiciary had struggled to define the term "industry" under Section 2(j)⁸, vacillating between literal interpretations and restrictive readings that excluded sovereign, educational, and charitable functions.

In *Bangalore Water Supply*, Justice V.R. Krishna Iyer propounded an incredibly wide "Triple Test" to clarify the statutory ambiguity. The Court ruled that where there is (i) a systematic activity, (ii) organized by cooperation between an employer and employees, (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes, an "industry" prima facie exists. The Court clarified that the absence of a profit motive or the philanthropic nature of the undertaking is completely irrelevant. Consequently, professions, clubs, educational institutions, co-operatives, and even municipal departments were brought within the regulatory net of the IDA.

While the *Bangalore Water Supply* ruling was deeply empathetic and aimed to extend labour protections to vulnerable workers in non-commercial sectors, it effectively overburdened the industrial dispute resolution machinery. By bringing an enormous array of non-commercial and public service entities under the stringent regulatory requirements of the IDA, the ruling created severe operational friction. Entities that were never structured to absorb the procedural costs of industrial litigation found themselves immobilized by labour disputes.

This expansive view drew subsequent criticism from within the judiciary itself for being overly rigid and detached from economic realities. Decades later, the tension surrounding this definition culminated in *State of U.P. v. Jai Bir Singh (2005)*⁹, where a five-judge bench noted that the over-expansive definition had created an environment where even essential

⁷ AIR 1978 SC 548

⁸ Ibid

⁹ (2005) 5 SCC 1

public infrastructure and governmental conservation projects were crippled by procedural litigation. The bench observed that an unregulated expansion of "industry" had done more harm than good to the public interest, referring the matter to a larger nine-judge bench for definitive re-evaluation of a judicial dilemma that remains a point of deep contention in Indian labour law.

ACCESS TO JUSTICE: THE SHIFT OF SECTION 2A

Another critical evolution within the Act's architecture is the boundary between an individual grievance and a collective industrial dispute. Historically, an industrial dispute under Section 2(k)¹⁰ was understood to mean a dispute between employers and workmen, implying a collective element. For an individual worker's grievance to be recognized as an industrial dispute, it had to be sponsored or espoused by a recognized trade union or a substantial body of fellow workmen. This requirement was firmly established by the Supreme Court in *Workmen of Dimakuchi Tea Estate v. Management of Dimakuchi Tea Estate (1958)*¹¹, where the Court held that a dispute must affect the community of workmen as a class to qualify under Section 2(k).

While this espousal rule strengthened the position of trade unions and reinforced the principles of collective bargaining, it left individual workers highly vulnerable if they were not members of a dominant union or if the union refused to take up their cause due to internal politics. Recognizing this severe gap in access to justice, the legislature intervened by introducing Section 2A¹² via an amendment in 1965. Section 2A created a statutory fiction, dictating that any dispute raised by an individual workman relating to their discharge, dismissal, retrenchment, or termination would be deemed an industrial dispute, notwithstanding that no other workman or union espoused the cause.

While Section 2A democratized access to labour courts for individual terminated employees, it also fundamentally altered the structural balance of the Act. By allowing individuals to bypass trade union sponsorship, it inadvertently shifted the focus of labour courts away from systemic, collective interest disputes (such as wage revisions and structural working conditions) and toward an absolute deluge of individual rights disputes centered on wrongful termination. This shift significantly contributed to the docket explosion within labour courts,

¹⁰ Ibid

¹¹ AIR 1958 SC 353

¹² Ibid

transforming them from macro-level economic arbiters into micro-level employment grievance tribunals.

INSTITUTIONAL FRICTION: ADJUDICATORY DELAYS

The adversarial trap is further exacerbated by the severe backlogs that plague the Indian judicial landscape. Labour courts and tribunals are notoriously overburdened, understaffed, and routinely disrupted by prolonged judicial vacancies. A dispute regarding the wrongful termination of a single daily-wage workman or the interpretation of a minor allowance can drag on for years, sometimes even a decade, moving slowly from the Industrial Tribunal to the High Court, and eventually the Supreme Court via Special Leave Petitions.

For an individual workman, this prolonged delay is catastrophic. Even though Section 17B¹³ of the Act attempts to mitigate this by mandating the payment of full last-drawn wages to a workman pending proceedings in higher courts provided the workman remains unemployed and the tribunal had ordered reinstatement the financial, psychological, and emotional toll of fighting a multi-year legal battle against a well-funded corporate entity is immense. Section 17B itself has become a source of heavy litigation, with employers frequently challenging the unemployment status of the worker to avoid the payment of interim wages, thereby creating a trial-within-a-trial.

Employees are forced to carry potential back-wage liabilities on their balance sheets for years and dedicate substantial managerial bandwidth to litigation rather than focusing on innovation, scaling, or product improvement. The courts have occasionally tried to balance this equity. For instance, in *Uttaranchal Forest Development Corporation v. M.C. Joshi (2007)*¹⁴, the Supreme Court recognized that while a violation of retrenchment procedures under Section 25F technically voids a termination, automatically granting reinstatement with full back wages after a massive lapse of time is not always justified or practical. In many such cases, the court has opted to substitute reinstatement with a lump-sum monetary compensation, acknowledging that forcing an employer to take back a worker after a decade of separation often fractures workplace harmony and imposes an unfair financial burden on an enterprise whose operational structure may have completely changed in the intervening years.

¹³ Ibid

¹⁴ (2007) 9 SCC 353

THE SECURITY PARADOX: CHAPTER V-B AND CASUALIZATION

Perhaps the most intensely debated aspect of the IDA is its stringent provisions regarding layoffs, retrenchments, and plant closures, encapsulated within Chapter V-B¹⁵. Introduced via amendments during the 1976 Emergency and further tightened in 1982, Chapter V-B applies to larger industrial establishments employing more than a specific threshold of workers (historically fixed at one hundred workmen, though amended upwards to three hundred by various state legislatures in recent years). Under this chapter, an employer must obtain prior permission from the appropriate government authority before executing any layoffs, retrenchments, or total closures of an industrial unit.

The constitutional validity of these restrictive provisions was fiercely litigated in the early years of their enactment. In *Excel Wear v. Union of India (1979)*¹⁶, the Supreme Court struck down the original version of Section 25-O (which dealt with prior permission for closure), declaring that the right to close down a business is an integral part of the fundamental right to carry on a business under Article 19(1)(g) of the Constitution. The Court noted that forcing an employer to run a loss-making business without reasonable cause was an unconstitutional restriction on liberty. Parliament subsequently amended the provision to include a mandatory requirement for recording reasons and providing an opportunity for a fair hearing, which was later upheld by a Constitution Bench in *Workmen of Meenakshi Mills v. Meenakshi Mills (1994)*¹⁷. The Court held that the restrictions under Chapter V-B are reasonable and in the interest of the general public, designed to prevent sudden mass unemployment and the resulting socio-economic distress.

While the intention behind Chapter V-B is undeniably protective, its practical, real-world consequence has frequently been highly counterproductive. Fearing the near-impossibility of legally downsizing or restructuring their workforce during a severe economic downturn, many businesses choose to completely bypass the traditional employment framework altogether. The state machinery, driven by political considerations, rarely grants formal permission for closures or mass retrenchments, leaving firms stuck in uneconomic operations. This regulatory anxiety has directly fuelled the massive explosion of informal, temporary, and contract labour across India's industrial landscape. Instead of hiring permanent, regular

¹⁵ Ibid

¹⁶ AIR 1979 SC 25

¹⁷ 1994 AIR 2696

workers who would be fully protected by the safety net of Chapter V-B, industries have increasingly relied on third-party contractors to supply temporary labour. These contract workers often perform essential, perennial tasks side-by-side with permanent staff, yet they enjoy fractionally less job security, lower wages, and far fewer long-term social security benefits.

The landmark ruling in *Steel Authority of India Ltd. v. National Union Waterfront Workers (2001)*¹⁸ sought to untangle this by ruling that the automatic absorption of contract labour into permanent roles upon a government prohibition notification under the Contract Labour (Regulation and Abolition) Act, 1970 is not a matter of right unless the contract itself is proven to be a mere sham or camouflage. Consequently, a regulatory framework originally designed to protect the working class from exploitation has unintentionally contributed to a highly fractured labour market, creating a small, highly protected core of permanent employees alongside a massive, vulnerable periphery of informal labourers who enjoy almost no institutional protections.

AUTONOMY REGAINED: SETTLEMENTS UNDER SECTION 18

As these systemic rigidities became more pronounced, the legal focus slowly returned to the potential of voluntary, bipartite settlements under Section 18 of the Act¹⁹. Section 18 distinguishes between two types of settlements: a settlement arrived at in the course of conciliation proceedings before a Conciliation Officer (Section 18(3)), which binds all parties to the industrial dispute, including future workers; and a bipartite settlement arrived at outside conciliation proceedings (Section 18(1)), which binds only the specific parties to the agreement.

The judiciary has consistently recognized that a fair, freely negotiated settlement is always superior to a court-imposed decree. In *ITC Ltd. Workers Welfare Association v. Management of ITC Ltd. (2002)*²⁰, the Supreme Court emphasized that a settlement arrived at between an employer and a recognized trade union during conciliation must be treated as a unified package. The Court held that individual terms of a settlement cannot be cherry-picked or challenged in isolation by dissatisfied factions of workers unless the settlement as a whole is shown to be fraudulent, unfair, or unconscionable. This judicial deference to collective

¹⁸ (2001) 7 SCC 1

¹⁹ Ibid

²⁰ (2002) 3 SCC 411

settlements highlights a crucial truth: industrial peace is most stable when it is organically negotiated by the stakeholders themselves, rather than handed down by a state tribunal that does not have to manage the daily operational realities of the shop floor.

CONCLUSION

Ultimately, the Industrial Disputes Act, 1947 stands as an enduring historic monument to an era when heavy state paternalism and administrative control were seen as the only viable remedies for industrial strife. While it has undoubtedly prevented egregious exploitation in numerous instances, provided a vital statutory voice to organized labour, and established the baseline dignity of the Indian working class, its heavy reliance on state-driven, compulsory adjudication has frequently stifled the growth of mature, autonomous collective bargaining. By converting economic disagreements into permanent litigation, the Act has often served to alienate the very capital and labour it sought to unite.

In a modern, fast-paced economic landscape characterized by global supply chains, automation, and shifting service models, industrial peace cannot be sustained through rigid, absolute prohibitions on corporate flexibility or endless court battles. True stability requires a regulatory environment that shifts the focus away from state-mandated litigation and back toward mutual, bipartite dialogue and rapid grievance redressal.

India's legislative consolidation of twenty-nine legacy labour laws into four unified codes specifically the Industrial Relations Code reflects a modern attempt to reconcile these exact historical frictions. By simplifying dispute resolution, introducing formal avenues for fixed-term employment, increasing the threshold for Chapter V-B permissions to three hundred workers across several states, and mandating institutionalized grievance redressal committees within factories, the new framework attempts to inject agility into the system. Real progress, however, will not depend merely on rewriting the statutes. It will depend on ensuring that the implementing machinery successfully protects the human dignity and financial security of the worker without strangling the economic dynamism, agility, and growth of the enterprise.