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A COMPARATIVE ANALYSIS OF THE CONSTITUTIONAL AND LEGAL PROVISIONS ON THE RIGHT TO STRIKE IN INDIA AND OTHER DEVELOPED COUNTRIES

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ABSTRACT

“there is a worldwide conflict between capital and labour.”----- Mahatma Gandhi

This research paper provides a comparative analysis of the constitutional and legal provisions concerning the right to strike in India and several developed countries, highlighting the ongoing global conflict between capital and labour. The paper explores the historical and contemporary significance of strikes as a means for workers to assert their rights, advocate for better working conditions, and negotiate fair wages. While India's Constitution does not explicitly guarantee the right to strike, it is indirectly protected under the Industrial Disputes Act of 1947, which imposes certain restrictions, particularly in essential services and for public sector employees. In contrast, developed countries such as the United States, the United Kingdom, and Germany have established more explicit legal provisions that recognize and regulate the right to strike. This paper examines the implications of these legal frameworks, the challenges faced by labour movements in India, and the role of international labour standards, particularly those set by the International Labour Organization (ILO), in promoting the right to strike as a fundamental worker's right. Through this comparative lens, the research underscores the varying degrees of protection and regulation of the right to strike across different jurisdictions, emphasizing its importance in the broader context of labour rights and social justice.

Keywords: Right to Strike, Constitutional Provisions, Legal Provisions, Labor Rights, Industrial Disputes, National Labor Relations Act, Trade Unions.

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1. INTRODUCTION

'Strike for your rights; even if you lose, your conscience will be at peace.'-- Mahatma Gandhi

From ancient times to modern times, man has had a need for himself. Man has been doing various work to fulfil such needs. As the needs increased, the work also increased, and based on that, he appointed employees at various levels to work under him. The employee was paid a salary commensurate with the work performed. The salary or wages thus paid were sometimes found to be adequate and sometimes inadequate for the worker. In such a situation, workers resort to various methods to get what they need. The most important of them are strikes and lockouts. Sometimes, the public also resorts to lockouts and strikes if the government does not fulfil their needs. Although strikes are used among the general public, strikes are often successful because they are conducted through trade unions. They are more common in factories because they Working through trade associations often brings success to workers. Various countries around the world have granted the right to strike through their constitutions, and some other countries through their legal provisions. This article analyses the constitutional and legal provisions on the right to strike in India and other developed countries right to strike.

2. HISTORICAL BACKGROUND OF STRIKE

The first labor strike in ancient Egypt occurred around 1157 BC. artisans at the royal necropolis at Deir El-medina protested against the government for not paying them their wages on time and in full. the sit-in was documented in a papyrus known as the "strike papyrus", now housed in the Museo Egizio in Turin, Italy. the workers were upset that the government had failed to provide them with essential goods such as wheat, forcing them to buy it themselves. when they raised their concerns with local authorities, they were ignored.³ eventually, the workers marched to the vizier's office, who then allowed the grain to be released the next, from the funerary temples, allowing the workers to temporarily return to their jobs. from 400 to 200 BC, roman workers disrupted the economy for several days during the plebeian secession. the plebeian class, which included builders, bakers, and ordinary labours, occupied a position just above slaves in the social hierarchy.⁴ they periodically stopped work altogether during "secessions" to advocate for more equal treatment within the republic. in the initial secession in 494 BC, the plebeians went on strike to protest a law that would have increased their debt,

³Egyptian Laborers Strike for Pay <https://www.nonviolent-conflict.org/resource/historical-nonviolence-egyptian-laborers-strike-pay-c-1170-bce/> last seen 2days

⁴general strikeeconomics and politics <https://www.britannica.com/topic/general-strike> last seen 5days

which led to the law being repealed and a representative role for the plebeians in government established. the final secession in 287 bc culminated in the creation of the plebeian assembly, which gave this class the power to enact their own laws and elect their representatives.⁵

In 1766, miners working for Spanish colonists protested wage reductions and poor working conditions. The two parties eventually negotiated a better labour contract. The strike began on July 30 after the mining management would not respond to a list of worker grievances. The strike lasted approximately one month and ended when the administration agreed to increase wages and meet other demands. It is the first worker strike in the Americas, and a 1894 strike resulted in 30 people dead, cost \$80 million in damages, and led to the creation of Labour Day in the US. The idea of a general strike, as a deliberate part of the tactics of collaborative logrolling, supposedly began in Great Britain, where the term had entered the language by the 1830s. Latterly in the century in France, syndicalist thinkers believed that workers could achieve a social revolution by using a general strike to directly erect the possessors of assiduity.

General strikes first came possible with the growth of large trade unions late in the 19th century. Two large general strikes passed in Belgium in 1893 and 1902 in support of universal masculinity franchise. A large-scale strike took place in Sweden in 1902 over analogous issues and was followed by one in Italy in 1904 protesting the use of dogfaces as strike breakers. The general strike that gripped Russia during the Revolution of 1905 forced Napoleon to issue the October Manifesto, in which he promised to produce a constitution and a public council. In 1909 another general strike was offered in Sweden, this time in response to the pay envelope-snap and walkout programs espoused by employers who faced falling gains. Nearly half of the country's total pool struck, and the cessation lasted a month before the strike was settled. The Swedish general strike showed that major profitable reforms could be achieved without resorting to violence.⁶

A general strike in Berlin baffled a right-sect preemption of the German government in 1920. In 1926 Britain faced one of the largest of all general strikes, which was accepted by the Trades Union Congress (TUC) in support of the nation's coal miners, who were in a bitter disagreement with the mine possessors. About three million of Britain's five million trade union members joined the strike, which was intended to force the government to mediate in the coal.

⁵right-to-work law <https://www.britannica.com/topic/general-strike> last seen 5days

⁶ right-to-work law <https://www.britannica.com/topic/general-strike> last seen 5days

disagreement. The strike lasted only nine days and ended on May 12, still, after the TUC realized that it was unfit to disrupt the government's essential public services. General strikes have been occasional in Europe since World War II. Notable exceptions were the outbreak of a general strike in France (May 1968), touched off by pupil demands for educational reform, and civil strikes for social security and educational reform in Italy (November 1968) involving further than 12 million workers. France was again the scene of a general strike (November 24–December 12, 1995) that shut down public transportation, hospitals, correspondence delivery, and numerous other public serviceability and services in kick against the French government's plans to cut welfare and other social benefits.

In the United States, organized labour has generally accepted the inviolability of the collaborative contract and therefore has, in principle, opposed the general strike. In some Asian and African countries, trade unions confederated with independence movements frequently resorted to general strikes as a means of political kick during social rule. In contemporary times, the small compass of assiduity in those countries has tended to limit trade union exertion. Wherever organized trade unions live in those countries, still, they've continued to use the general strike as an instrument for achieving profitable as well as political ends. The first strike by Indian textile workers took place in March 1862, that is, within nine times of its appearance. 1200 road workers of Howrah station went on strike demanding an 8-hour working day. In 1877, workers went on strike at the Empress Mill in Nagpur demanding a rise in wages. Following the announcement of job cuts by the Margaret Thatcher-led government, more than 100,000 miners in Britain went on a long strike in 1984.⁷

2.1. DEFINITION OF RIGHT TO STRIKE

The 'right to strike' refers to a well-established annual wage for workers to engage in collective action, express their grievances, and maintain their rights and interests by withholding their labor as a means of expressing their grievances and maintaining their rights and interests. It is considered an important symbol of popular and mortal rights within a society.

Common reasons for strikes are profit reasons, administrative reasons, and political reasons. Based on the situation of strikes around the world, strikes can be classified as profit strikes,

⁷https://archive.cpiml.org/liberation/year_2008/april/working_class_hundred_years_last seen3days

sympathy strikes, general strikes, sit-ins, slow strikes, hunger strikes, and sudden strikes.

According to **Industrial Disputes Act, 1947**⁸, Section 2(q) a strike is “a conclusion of work by a body of persons employed in any assiduity acting in combination, or a combined turndown, or a turndown under common understanding of any number of persons who are or have been so employed to continue to work or to accept employment. **Malawi, Labour Relations Act, 1996** ⁹Section 2. Delineations." strike" means combined action performing in a conclusion of work, a turndown to work or to continue to work by workers, or a slow-down or other combined exertion of workers that's designed to or does limit product or services, but does n't include an act or elision needed for the safety or health of workers, or a turndown to work under section 52 (turn down to do strikers' work).

SouthAfrica, Labour Relations Act, 1995 (amended by the Labour Relations Amendment Act, 2002) Section 213. Delineations." strike" means the partial or complete combined turndown to work, or the deceleration or inhibition of work, by persons who are or have been employed by the same employer or by different employers, for the purpose of remedying a grievance or resolving a disagreement in respect of any matter of collective interest between employer and hand, and every reference to " work" in this description includes overtime work, whether it's voluntary or mandatory.¹⁰

Niger, Labour Code, 1996 side. L620. ¹¹. A strike is a combined labour cessation decided upon by workers to pursue occupational claims and in defence of their material or moral interests. **Dominican Republic, Labour Code, 1992** Section 401. A strike is the According to voluntary suspense of work, inclusively agreed upon and carried out by the workers in defense of their common interests. ¹²**El Salvador, Labour Code, 1994** Section 527. ¹³A strike is the collaborative suspense of work, agreed upon by a number of workers with the purpose of reaching a certain end. Section 528. The strikes accepted by this law, for labor purposes are only those having one of the following pretensions. The signing or modification of the collaborative work contract; The signing or modification of a collaborative work agreement, or The defense of the participated professional interests of the workers. **Venezuela, Organic**

⁸The industrial disputes act 1947

⁹Malawi, Labour Relations Act, 1996

¹⁰SouthAfrica, Labour Relations Act, 1995 (amended by the Labour Relations Amendment Act, 2002)

¹¹ Niger, Labour Code, 1996

¹² Dominican Republic, Labour Code, 1992

¹³ El Salvador, Labour Code, 1994

Labour Law, 1997, under Section 494. The term strike, is applied to a collaborative suspense of work by the workers involved in a work conflict.¹⁴

3. RIGHT TO STRIKE UNDER INTERNATIONAL CONVENTIONS

The discusses Convention 87 and focuses on Article 3¹⁵, which allows workers' and employers' groups to create their own constitutions and rules, manage their operations, and develop their programs without excessive interference from public authorities. The authors use various decisions to show that this right includes the ability to strike, even though there isn't a specific mention of it. They argue that the right to strike is connected not only to trade unions' ability to set their own rules and plans but also to workers' rights to negotiate collectively, which is safeguarded by Convention No. 98 on The Right to Organise and Collective Bargaining from 1949.

The right to strike has often faced challenges from governments and attempts to restrict it. However, it plays an important role in industrial relations, allowing unions to advocate for their members and balancing the power dynamics between workers and employers. This leads to improved working conditions and fair wages for employees. In addition to serving a social purpose, the right to strike also represents a recognized fundamental civil right, freedom of association, and some argue that it also reflects political freedoms. However, with the recent request for an advisory opinion from the ICJ, the future of the right to strike within the ILO is now in question.¹⁶

3.1 THE RIGHT TO STRIKE UNDER THE ILO

ILO Convention No. 87 does not directly address the right to strike. However, over time, ILO interpretative bodies have understood Article 3 of the Convention to include the right of trade unions and employers' organizations to engage in collective action. This interpretation arose because collective action is considered an essential part of freedom of association. Without the ability to strike, workers and employers cannot effectively advocate for the interests of their members during negotiations. As a result, the ILO has established a comprehensive and layered

¹⁴ Venezuela, Organic Labour Law, 1997

¹⁵ Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

¹⁶ <https://www.ejiltalk.org/the-right-to-strike-in-international-law-amid-legal-challenges-exploring-alternatives-to-ilo-convention-no-87/>

framework for collective action.¹⁷

On the two aspects discussed here, the ILO has clarified that the scope of protection for trade unions to engage in collective action is not limited to strikes or lockouts. It also includes other types of action, such as “slow-moving” strikes or “work-as-usual” strikes. In addition, the ILO has consistently advocated a flexible approach to limitations on strikes, allowing only purely political strikes to be prohibited. This flexibility enables workers' representatives to negotiate more effectively with both management bodies and their direct employers. These guidelines illustrate the broad application and strong protection afforded to the right to strike and trade union rights within the ILO in general.¹⁸

4. RIGHT TO STRIKE AS A CONSTITUTIONAL RIGHT OR LEGAL RIGHT

4.1 RIGHT TO STRIKE IN INDIA

The Constitution of India, Article 19(1)(c) grants the fundamental right to form associations or trade unions or cooperatives to the citizens of India. Article 19(1)(c) of this fundamental right refers only to the right to form associations or trade unions¹⁹. Apart from this, it does not guarantee the right to enter into collective bargaining agreements or to strike. It is necessary to know whether strike is a fundamental constitutional right from some Supreme Court decision. In the 90s, the Hon'ble Supreme Court clarified that even on a liberal interpretation of Article 19, it cannot be said that the trade union has conferred the right to strike and collective bargaining, and it was held that this right is not a fundamental right. The exercise of the fundamental right by a political party whose view is unjustified from exercising their fundamental rights or duties for their own benefit or for the benefit of the State or the Nation cannot be accepted." The Hon'ble Court, which considers strike as a right of the Government servants, noted that there is no fundamental right conferred on the Government servants to strike. In the case of **Kameshwar Prasad v. the state of Bihar**²⁰ the court held that the strike is not a fundamental right that is given to the people. The court also stated that government employees do not have a legal or moral right to go on a strike. **Justice Bhagwati** said that the

¹⁷ ILO PRINCIPLES CONCERNING THE RIGHT TO STRIKE, ISBN 92-2-111627-1 the International Labour Review, Vol. 137 (1998), No. 4. This edition 2000

¹⁸ ILO PRINCIPLES CONCERNING THE RIGHT TO STRIKE, ISBN 92-2-111627-1 the International Labour Review, Vol. 137 (1998), No. 4. This edition 2000

¹⁹ The Constitution of India 1950, Article 19(1)(c)

²⁰ 1962 AIR 1166

right to strike is an integral part of collective bargaining and this right is recognized by industrial law and supported by social justice. It affects the entire economy. **Fenner (India) Ltd vs Superintendent of Police on 12 June, 2012**²¹The Constitution of India enshrines the right to pursue any occupation or business as a fundamental right under Article 19(g), yet the right to strike does not enjoy the same status. Courts have acknowledged the strike as a valid tool for labour, governed by the Industrial Disputes Act. Exercising this right necessitates adherence to the stipulations outlined in the Act, which imposes regulations and limitations on the initiation and continuation of strikes. Any strike that contravenes these provisions is deemed illegal, incurring penalties as specified in Section 26. An examination of Sections 2(n), 10(1), 12(1), and 22 reveals the legislature's intent to safeguard public utility services, ensuring that the general public and society are not unduly inconvenienced. Thus, while the right to strike remains intact, it is judiciously restricted to prevent a minority of workers from disrupting essential services through sudden strikes²². There is no legal/statutory right to strike. There is no statutory provision empowering the employees to strike. **D.K. Rangarajan vs Government of Tamil Nadu and others on 6th August, 2003** Furthermore, there is a prohibition on strike under the Tamil Nadu Government Servants Conduct Rules, 1973 (hereinafter referred to as the "Conduct Rules"). Rule 22 states, "No Government servant shall engage in or incite or instigate a strike or in any similar activity." The explanation to the above rule explains the term 'similar activities'. It states, "For the purpose of this rule, the expression 'similar activities' shall be deemed to include non-work or neglect of duties without permission and with the intention of compelling his superiors or the government or any other person to do so." Protest hunger strike is commonly called "fasting".²³

Article 19(1)(c) of the Constitution of India grants the fundamental right to form associations or trade unions or cooperatives to the citizens of India. Article 19(1)(c) of this fundamental right only refers to the right to form associations or trade unions. Apart from this, it does not guarantee the right to enter into collective bargaining agreements or to strike. It is necessary to know from some judgment of the Supreme Court whether strike is a fundamental constitutional right. **The Indian Express Bombay v. T.M. Nagarajan**²⁴ had held that workers can strike peacefully. In India, there is a fundamental right to form trade unions, but there is no fundamental right to strike. In India, the Supreme Court judgments have made it very clear that the right to strike is not a fundamental right granted by the Constitution of India. Furthermore,

²¹ Fenner (India) Ltd vs Superintendent of Police on 12 June, 2012

²² Fenner (India) Ltd vs Superintendent of Police on 12 June, 2012

²³ D.K Rangarajan vs government of Tamilnadu and others on 6th august, 2003

²⁴ 1987(15) DRJ212

the right to strike is a legal right. Strikes are a way for workers to demand better working conditions and fair wages and to play a key role in resolving grievances. However, there is a veil of ambiguity surrounding this right, and uncertainty about the limits to its exercise discourages workers.

The above cases and many more have clarified the definition of a strike, how it should be conducted, and how it should be implemented through law. Although strike is not a fundamental right according to Indian Constitution, it has been recognized as a legal right and various practices are being carried out under it, but in some places, in the name of strike, the law is not followed and acts as a nuisance to the common people.

4.2. RIGHT TO STRIKE IN THE UNITED STATES AMERICAN

The United States stands as a prominent advanced nation globally. American labore have engaged in strikes to advocate for improved wages, reasonable working hours, enhanced contracts and benefits, and superior working conditions. The ten largest strikes, involving millions of workers, have occurred across various sectors, including mining, manufacturing, transportation, and public services. These strikes have historically resulted in worker fatalities, economic disruption, and violence. Established in 1935, the National Labor Relations Board (NLRB) is an independent federal agency designed to prevent such detrimental strikes from recurring. Its members and general counsel are appointed by the chairperson with Senate approval. The NLRB is empowered to protect workers' rights to organize, collaborate for better working conditions, and select representatives for negotiations with employers²⁵. Additionally, it conducts secret ballot elections for union representation and addresses illegal labour practices by private-sector employers and unions, operating under the National Labor Relations Act of 1935, as amended. The U.S. Supreme Court affirmed the constitutionality of the National Labor Relations Act (NLRA) in the case of *National Labor Relations Board v. Jones & Laughlin Steel Corporation*²⁶, which significantly bolstered the labour movement, transforming unions into a formidable political and economic force. This shift also saw a remarkable rise in female union membership, with over 800,000 women joining by the late 1930s, tripling the numbers from 1929. The NLRA's framework was further enhanced by the Taft-Hartley Labor Act of 1947 and the Landrum-Griffin Act of 1959. Recently, the Supreme Court's ruling in **Glacier**

²⁵The National Labor Relations Board <https://www.nlr.gov/about-nlr/who-we-are> last seen 5 days

²⁶301 [U.S. 1](#)

Northwest Inc. v. Teamsters ²⁷ allowed companies to seek damages for property loss during labour strikes, potentially benefiting employers amid a pro-union National Labor Relations Board. This decision paves the way for easier recovery of damages incurred during strikes and may also open avenues for punitive damages against unions or employees engaging in reckless behavior while asserting their NLRA rights. The American labour landscape is thus shaped not only by the right to strike and collective bargaining but also by the intricate balance of employer interests, economic considerations, and equitable treatment of employees.

4.3. RIGHT TO STRIKE IN THE U.K

From the onset of the Industrial Revolution, working men and women have been withholding their labour as a means of logrolling for better pay and conditions. A wide workers' knowledge formed in the UK from the peak of the Chartist movement in the 1830s, leading to a swell of strikes in 1842. Those strikes have been viewed as the first time that a large body of workers organised themselves in a politically- motivated action to win concessions. In actuality, a complicated legal framework is necessary for the "right to strike" in the UK to be realised. Such a complicated right needs to be operationalised through labour laws, even in nations where the right to strike is stated explicitly in a constitution. It is a quintessential example of a "legislated" right. The right to strike is currently protected by UK law, albeit one that is stitched together from a number of sources, including statutes like TULRCA, common law, Convention rights, and pertinent case law, as a result of the Human Rights Act's passage and the ECtHR's developing jurisprudence.²⁸

4.4 RIGHT TO STRIKE IN GERMAN

The right to strike generally Article 9 paragraph 3 of the German Constitution guarantees the right to freedom of association Of the Basic Law ²⁹. The right to strike has been construed by case law as part of the freedom of association. Strikes cannot violate a collectively accepted commitment of peace and can only occur after all other avenues of agreement have been explored. Politically motivated strikes are not allowed. Strikes must be coordinated by a union and aim to accomplish a goal that can be outlined in a collective bargaining agreement. Strikes that aimed to assist employees in a different area covered by a collective agreement were prohibited prior to 2007. However, such strikes have been permitted since 2007 as a result of

²⁷598 U.S. 771

²⁸ <https://www.gov.uk/industrial-action-strikes>

²⁹ Right to strike, power and competition by NORBERT F. TOFALL2024 Floss bach von Storch

a Federal Labour Court ruling. Some methods of strike action are prohibited; for example, in 2009 the Federal Labour Court ruled that measures accompanying strikes, such as flash mobs, are only justified if the employer has effective possibilities of defence. There is no general legal requirement for a ballot to strike. Instead, the constitutions of the individual unions, or specific bye-laws, determine whether a ballot is necessary and the regulations for holding such ballots. If a ballot is held, it cannot be conducted online. Since 2017, agency workers cannot be used to replace striking workers, as set out in Section 11 (5) of the Temporary Employees Act. A breach of this regulation can lead to a fine placed upon an employer of up to €500,000³⁰.

4.5. RIGHT TO STRIKE IN SPANISH

Article 28 of the Spanish Constitution guarantees the right to strike and states that the legislation governing strikes must provide the required assurances for the community's basic services. The main law governing strikes is Royal Decree-Law 17/1977 of March 4, 1977. On April 8, 1981, the Constitutional Court declared that the prior ballot threshold requirements were unconstitutional. Online ballots are not subject to any restrictions. Politically motivated strikes are not allowed. Employers are not allowed to substitute agency employees or employees who weren't working when the strike was declared, unless it's absolutely necessary to protect persons and property or to keep the workspace and supplies in good condition³¹.

Employee strikes in "strategic sectors with the purpose of interrupting the production process" are prohibited by Article 7.2 of Royal Decree 17/1977. This law's Article 10.2 gives the government the authority to agree on any required steps to guarantee the operation of any public services during strikes in extreme cases. The Supreme Court has deemed the following sectors which are not specifically mentioned in legislation to be crucial: public administration, health, education, radio, television, and broadcasting; legislative activity; public administration; and the administration of justice and municipalities. The minimum service requirements for strikes can be specified in some industries, while in others they have already been predetermined by current legislation.³²

4.6. RIGHT TO STRIKE IN FRANCE

The preamble to the 1946 constitution was incorporated into the 1958 constitution, which

³⁰ <https://researchbriefings.files.parliament.uk/documents/CBP-9751/CBP-9751.pdf>

³¹ <https://researchbriefings.files.parliament.uk/documents/CBP-9751/CBP-9751.pdf>

³² <https://researchbriefings.files.parliament.uk/documents/CBP-9751/CBP-9751.pdf>

established the freedom to strike. "Every man can defend his rights and interests by union action and join," according to Article 6 of this the partnership of his choosing. "The right to strike is exercised within the framework of the laws which regulate it," according to article 7 of the preamble. For a strike to be legitimate, all striking employees must completely and collectively stop working, and the strike must be related to demands made by the workplace. Politically motivated strikes are prohibited.³³

At the outset, the employer must be made fully aware of the demands of the strikers. Strikers risk punishment if they disregard the labour of non-strikers. Strike ballots are exempt from statutory turnout or threshold criteria. During a strike, temporary or agency workers can be hired to make sure minimum service requirements are fulfilled. However, administrative judges have the authority and frequently do declare such measures illegal if strikers decide to file a lawsuit against them. This would occur, for instance, if temporary or agency workers were employed in a way that essentially compromised the constitutionally protected right to strike or in a situation where they were not thought to be rendering an essential service. A Constitutional Council decision that some functions must continue for the sake of public order or national defence also prevents some public employees from going on strike. The national police, judges, military personnel, and jail administration staff are given as examples. In many public sectors, notice of a strike must be issued several hours in advance, giving organisations time to arrange a minimum service.³⁴

5. CONCLUSION

The right to strike is a key tool in the labour movement, allowing workers to voice their concerns, seek better working conditions, and negotiate for improved wages and benefits. However, the legal and constitutional frameworks surrounding this right vary widely between countries, influenced by their unique historical, economic, and political contexts. In India, although the constitution does not explicitly guarantee the right to strike, it is protected under some labour laws, such as the Industrial Disputes Act of 1947, which allows strikes but imposes restrictions, particularly in essential services where advance notice is mandatory, and public sector workers face strict rules. As a result, labour movements in India often face obstacles such as political interference and economic constraints that prevent them from effectively exercising this right.

In contrast, many developed countries, such as the United States, the United Kingdom, and

³³ The Spanish Constitution 1978

³⁴ <https://researchbriefings.files.parliament.uk/documents/CBP-9751/CBP-9751.pdf>

Germany, have more clearly defined legal frameworks regarding strikes. These countries recognize the right to strike to varying degrees through constitutional provisions or legal precedents. For example, the National Labor Relations Act in the United States allows strikes under certain conditions, while imposing restrictions to protect national economic interests. Similarly, Germany recognizes the right to strike in the context of collective bargaining, although this is generally limited to sectoral matters and excludes essential services. International labor standards, particularly those supported by the International Labor Organization (ILO), highlight the importance of protecting the right to strike as a fundamental worker's right, albeit with some limitations in essential sectors to ensure the public interest.

SUGGESTIONS:

- Revise India's legal framework to strengthen and clarify strike protections, aligning with international standards while recognizing it as a fundamental labor right, with necessary restrictions for essential services.
- Implement measures to balance the right to strike with the need to minimize economic disruption and protect vital public services, drawing on successful models from countries like Germany.
- Consider adopting International Labor Organization recommendations to promote strikes as a tool for constructive employer-employee dialogue, enhancing social justice and public order.
- Develop effective dispute resolution mechanisms through collaboration between the government and businesses, including specialized labor courts and mediation processes, to proactively address labor disputes.
- Regularly reassess the classification of essential services to ensure it reflects current public needs, preventing excessive limitations on the right to strike in non-critical sectors.