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**Comparative Analysis Of The Industrial Disputes Act
Of India And The Industrial Disputes Act Of Sri
Lanka.**

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COMPARITIVE ANALYSIS OF THE INDUSTRIAL DISPUTES ACT OF INDIA AND THE INDUSTRIAL DISPUTES ACT OF SRI LANKA.

The following table shows a comparative distinction between the Industrial Disputes Act of India and Sri Lanka. It also highlights the areas in which either of the Statute are silent and therefore provides scope for improvements.

AREA	INDIA	SRI LANKA
DEFINATION OF INDUSTRIAL DISPUTE	Any dispute or difference between:- (a) employers and employers (b) employers and workmen (c) employers and workmen which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person; ¹	Any dispute or difference between (a) employer(s) and workmen (b) workmen and workmen connected with the employment or non-employment, or the terms of employment, or with the conditions of labour, or the termination of the services, or the reinstatement in service, of any person, and for the purpose of this definition “workmen” includes a trade union consisting of workmen; ²
DISPUTE SETTLEMENT MECHANISM	Industrial Disputes Act of Indian provides for 6 authorities. Conciliation Officer, Board of Conciliation, Court of Inquiry, Labour Courts, Tribunals and National Tribunal.	Conciliation, Arbitration, Labour court, and Industrial court. Any written agreement between employer and employee is also considered.
JURISDICTION	The jurisdiction of the authorities are enumerated in the Act itself. The Labour Court decides disputes enumerated in the Second Schedule. The Tribunal decides disputes enumerated in the Second and Third Schedule. Questions of National Importance are decided by the	When the commissioner is satisfied of the existence or apprehension of an industrial dispute, the commissioner will cause to settle the dispute in either of the following ways :- (a) settlement of dispute in pursuance of any agreement between the organization and employees

¹ Sec 2(k) of IDA India

² Sec 48 of IDA Sri Lanka

	National Tribunal.	<p>(b) settle the dispute by Conciliation</p> <p>(c) refer the case to an authorized officer for conciliation</p> <p>(d) refer the dispute to Arbitration (with consent of parties)</p> <p>(e) refer the dispute to Labour Court</p> <p>(f) The Minister may, by an order in writing, refer any industrial dispute to an industrial court for settlement³</p>
PROCEDURE	The authorities and the Arbitrator have the power to frame their own procedure ⁴ . Certain powers of the Civil Court are also vested in these authorities ⁵ . In addition the Central and State Government are also empowered to frame rules regarding the Power and procedure of these Authorities. ⁶	The Minister is empowered to frame regulations for the Procedure to be followed by industrial court, arbitrator and labour tribunal. However industrial court is empowered to make procedure to be followed in conducting inquiry. ⁷ Procedure of labour tribunal are made by the Minister of justice in concurrence with the Minister of Labour.
WORKS COMMITTEE AND GRIEVANCE SETTLEMENT COMMITTEE	The Industrial Disputes Act India compulsorily requires a works committee in every industry employing 100 or more workers to ensure good relation between employer and employee ⁸ and Grievance Settlement Committee in every industrial establishment with 50 or more workmen for settlement of Industrial disputes	Such an arrangement is absent in the statute of Sri Lanka but similar provisions are made in the Works Committee Act.

³ Sec 3 of IDA Sri Lanka

⁴ Sec 11 IDA India

⁵ Sec 11 (3) IDA India

⁶ Sec 38 (2)(a) IDA India

⁷ Sec 24(2) of IDA Sri Lanka

⁸ Sec 3 IDA India

	connected with an individual workman employed in the establishment. ⁹	
INSPECTION OF RECORDS	Such provision though not contained in the Industrial Disputes Act, but similar provisions are made in the Factories Act.	A duty is cast on the employer to make available for inspection by the Commissioner or any Labour Officer or any other prescribed officer any registers or records required to be maintained by him under the Wages Boards Ordinance, the Maternity Benefits Ordinance, the Shop and Office Employees Act, or the Employees' Holidays Act, and such other registers or records as may be prescribed. ¹⁰
COLLECTIVE BARGAINING	Though expressly the term "collective bargaining" does not find place in the statute, but Sec 18 (1) of the IDA, provides that memorandum of settlements entered into between workmen represented by trade unions and employers would be binding upon the parties.	Part III of the Act defines Collective agreement, and also provides that the Commissioner shall publish the Collective Agreement in the Gazette.
STRIKE ¹¹	Definition of strike is the same in both Countries. The definition of strike in Sri Lanka is contained in the Trade Unions Ordinance. ¹²	
	A distinction is made between strikes by persons employed in public utility services and strikes by person employed in industrial establishments. Manner of giving notice is also prescribed. The notice given/received by employee is to be reported to the Appropriate Govt within 5 days.	The Act provides the manner of striking only with respect to Essential Industries. Written notice of intention to commence the strike should be given to the employer at least twenty-one days before the date of the commencement of the strike. ¹⁴ The Act is silent w.r.t strikes in non essential industries. It also doesn't

⁹ Sec 9C IDA India

¹⁰ Sec 44C of IDA Sri Lanka

¹¹ Chapter V of IDA India

¹² Sec 2Q IDA India and Part I of Trade Unions Ordinance.

	<p>Strikes can be carried out in public utility services by giving a notice 6 weeks prior to the date of strike or within fourteen days of giving such notice.¹³</p> <p>Manner of giving notice is prescribed.</p>	explicitly recognize the right to strike although it this right is derived from the right to form trade Unions.
	The notice given or received by the employer is to be reported to the Appropriate Govt within 5 days.	No such provision in Sri Lanka
PROHIBITION OF STRIKES AND LOCKOUT¹⁵	<p>Strikes and lockouts are prohibited in Industrial Establishments during</p> <ul style="list-style-type: none"> (a) Conciliation proceedings and 7 days after the conclusion of conciliation proceedings (b) Proceedings in labour court, Tribunal, National Tribunal and 2 months after the conclusion of these proceedings (c) Arbitration proceedings and 2 months after the conclusion thereof (d) Any period in which a settlement or award is in operation 	No such provision in Sri Lanka
LAYOFF	Lay off is defined as “failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the breakdown of machinery or natural calamity or for any other connected	No mention of lay off in the IDA of Sri Lanka. However termination of employment of workmen is governed by the Termination Of Employment Of Workmen (Special Provisions) Act.

¹⁴ Part V of IDA Sri Lanka

¹³ Sec 22 of IDA India

¹⁵ Sec 23 of IDA India

	reason to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched.”	
COMPENSATION IN CASE OF LAYOFF¹⁶	<p>Compensation is calculated at 50 % of the Basic wages and Dearness Allowance for 45 days only.</p> <p>Compensation is not paid if if</p> <ul style="list-style-type: none"> (a) he refuses to accept any alternative employment in the same establishment from which he has been laid-off, or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of five miles from the establishment (b) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day; (c) if such lay off is due to strike or slowing-down of production on the part of workmen in another part of the establishment. 	Termination Is governed by the formula provided for calculating the compensation as contained in the Schedule.
RETRENCHMENT	"Retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but	Retrenchment” means the termination by an employer of the services of a workman or workmen on the ground that such workman or workmen is or are in excess of the number of workmen required by

¹⁶ Sec 25C of IDA India

	<p>does not include-</p> <p>(a) voluntary retirement of the workman; or</p> <p>(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or</p> <p>(c) termination of the service of a workman on the ground of continued ill-health.</p>	<p>such employer to carry on his industry.¹⁷</p>
<p>However in India as well as Sri Lanka, the benefits of retrenchment is given only to the workman who has been employed in any industry for a period more than one year.</p>		
<p>Both the countries have made provisions for giving preference to retrenched workers in case of re-employment by the employer.¹⁸</p>		
<p>CONDITIONS PRECEDENT TO RETRENCHMENT OF WORKMEN AND SERVICE OF NOTICE¹⁹</p>	<p>Workman who has been in continuous service for not less than one year under an employer shall be retrenched by that employer on the following conditions:-</p> <p>(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice</p>	<p>Where an employer intends to effect retrenchment in respect of any workman employed in an industry carried on by that employer, he shall, unless such retrenchment is in consequence of an agreement between the employer or the representative of the employer and the workman or the representative of the workman, or a settlement or award under this Act</p> <p>(a) give to that workman at least one month's notice in writing of</p>

¹⁷ Sec 48 of IDA Sri Lanka

¹⁸ Sec 25H of IDA India and Sec 59 of IDA Sri Lanka

¹⁹ Sec 25F of IDA India

	<p>(b) the workman has been paid, at the time of retrenchment, compensation equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and</p> <p>(c) notice in the prescribed manner is served on the appropriate Government or authority.</p>	<p>such intention, and, if that workman is a member of a trade union, to that trade union, and</p> <p>(b) send a copy of such notice to the Commissioner.²⁰</p> <p>No employer shall effect retrenchment in respect of any workman to whom he has given notice of his intention to do so until after the expiry of two months after the date of such notice.²¹</p>
PRINCIPLE OF FIRST COME LAST GO²²	In the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category	No such provision in Sri Lanka
FURNISHING OF SECURITY IN CASH	No such provision is contained in the IDA in India	<p>The employer is required to furnish security in cash in case such employer</p> <p>(a) appeals to the High Court against an order of a labour tribunal or</p> <p>(b) makes an application in revision or</p> <p>(c) makes an application for the issue of writ of <i>certiorari</i>, <i>prohibition</i>, <i>procedendo</i> or <i>mandamus</i> against the President of a labour tribunal, in respect of an order made by such President.</p> <p>The amount of security to be deposited is also contained in the Act.²³</p>

²⁰ Sec 31G of IDA Sri Lanka

²¹ Sec 31H of IDA Sri Lanka

²² Sec 25G of IDA India

²³ Sec 31C (4) of IDA Sri Lanka

NOTICE OF CHANGE IN CERTAIN MATTERS²⁴	In case the Employer proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall give the worker a notice of the nature of such change	No such provision in Sri Lanka
COMPENSATION FOR TRANSFER OF UNDERTAKING²⁵	Where on account of transfer of ownership or management of an undertaking from present employer to a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer and whose service is interrupted and terms and conditions of the service become less favorable, the workman is entitled to notice and compensation as if the workman had been retrenched.	No such provision in Sri Lanka
COMPENSATION TO WORKMEN IN CASE OF CLOSING DOWN OF UNDERTAKINGS²⁶	Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, be entitled to notice and compensation, as if the workman had been retrenched.	No such provision in Sri Lanka
CONFIDENTIALITY OF MATTERS	In case the trade union, person, firm or company, in question has makes a request in writing to the conciliation officer, Board, Court, Labour Court, Tribunal,	No such provision in Sri Lanka

²⁴ Sec 9A of IDA India

²⁵ Sec 25FF of IDA India

²⁶ Sec 25FFF of IDA India

	<p>National Tribunal or Arbitrator, as the case may be, that the information provided in the course of investigation (which is not available otherwise than through the evidence given before such authority) shall be treated as confidential; then such information shall not be included in any report or award under this Act.²⁷</p>	
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²⁷ Sec 21 of IDA India