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COMPARISON OF THE LABOUR RIGHTS
ENSHRINED IN THE CONSTITUTION OF SRI
LANKA AND INDIA.

Prepared by Aufa Karnalkar V BSL LLB
(ILS LAW COLLEGE)
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**COMPARISON OF THE LABOUR RIGHTS ENSHRINED IN THE CONSTITUTION
OF SRI LANKA AND INDIA.**

The following table makes a comparison of the provisions relating to employment and labour matters in the Indian Constitution and Sri Lankan Constitution.

Provision w.r.t Labour And Employment Matter	Relevant Provision In Sri Lankan Constitution	Relevant Provision In Indian Constitution
Freedom of association	Article 14 guarantees every citizen (among other rights) the freedom of speech and expression including publication, the freedom of peaceful assembly, the freedom of association, the freedom to form and join a trade union; the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise.	Article 19- Similar to Sri Lankan constitution, the Indian Constitution guarantees the citizens the right to assemble peaceably and without arms and the right to form associations or unions, to practise any profession, or to carry on any occupation, trade or business.
Restriction to the above rights	The above rights are subject to restrictions which are contained in Article 15 such as national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the	In India also these rights are not absolute but are subject to restrictions which may be in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order,

	<p>just requirements of the general welfare of a democratic society.</p> <p>The freedom of peaceful assembly is subject to restrictions by law in interest of racial and religious harmony. And the freedom of association is subject to restrictions by law in the interests, of racial and religious harmony or national economy.</p>	<p>decency or morality, or in relation to contempt of court, defamation or incitement to an offence.</p>
<p>Equality of opportunity employment or appointment</p>	<p>Article 27 (6) in Part VI, i.e Directive Principles of State Policy states that the State shall ensure equality of opportunity to citizens, so that no citizen shall suffer any disability on the ground of race, religion, language, caste, sex, political opinion or occupation.</p>	<p>Article 16 of the Indian Constitution provides for equality of opportunity in employment or appointment to any office under the state. It prohibits discrimination on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.</p>
<p>Fundamental duty</p>	<p>Article 28 sub clause (c) states that it is the fundamental duty of every person in Sri Lanka to work conscientiously in his chosen occupation.</p>	<p>No such provision in Indian Constitution.</p>
<p>Reservation for backward classes</p>	<p>No such provision in the constitution of Sri Lanka.</p>	<p>The Indian Constitution has the provision for reservation</p>

		in matters of employment for scheduled caste, schedule tribe and other backward classes. This is contained in article 16(4). The state is also empowered to make provision any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes.
Prohibition of Human Trafficking and Forced labour	Though there is no express mention in the constitution, such acts are made offences in the penal code.	Article 23- Indian constitution prohibits the human trafficking and begging are forced labour are made an offence. Similar laws prohibiting human trafficking and begging are made in furtherance of this article.
Prohibition of Child Labour	There is no specific mention of child labour. However the directive principles of state policy mentions that the State shall promote with special care the interests of children	Article 24. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous

	and youth, and to protect them from exploitation and discrimination. ¹ The Employment of Women, Young Persons and Children Act 1956 is enacted.	employment. The Child Labour (Prohibition And Regulation) Act, 1986 is enacted.
Right to strike	Article 14 guarantees the freedom to form and join a trade union. However, the Trade Unions Ordinance defines as to what strike action involves and therefore, in the context of the Sri Lankan labour law, strike action can be regarded as a legitimate trade union activity, except in situations where it is restricted by law. However there is no express provision in the constitution giving the right to strike.	Similarly, the Indian constitution guarantees the right to form associations or unions, however there is no express provision of the right to strike.
Directive Principles Of State Policy	Like in Sri Lanka, in India also the directive principles of state policy are not enforceable in the court of law. They are only guiding principles for the state. Similarly, the Constitution of Sri Lanka also says that the Principles of State Policy and fundamental duties not justiciable and the directive principles of state policy do not confer or impose legal rights or obligations, and are not enforceable in any court or tribunal. The relevant entries and articles in respect to labour mentioned in Directive principles of both the countries are as follows:-	
	<u>Article 27.</u> (6) The State shall ensure equality of	<u>Article 41</u> of D.P.S.P mentions that the State shall,

¹ Article 27 (13) directive principles of state policy

	<p>opportunity to citizens, so that no citizen shall suffer any disability on the ground of race, religion, language, caste, sex, political opinion or occupation.</p> <p>(7) The State shall eliminate economic and social privilege and disparity, and the exploitation of man by man or by the State.</p> <p>(8) The State shall ensure that the operation of the economic system does not result in the concentration of wealth and the means of production to the common detriment.</p>	<p>within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.</p> <p><u>Article 42.</u> Mentions that the State shall make provision for securing just and humane conditions of work and for maternity relief.</p> <p><u>Article 43.</u> mentions that The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall</p>
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		endeavour to promote cottage industries on an individual or co-operative basis in rural areas.
Redressal in case of infringement of fundamental rights	Fundamental rights can be enforced by way of writs in the supreme court in case any fundamental rights enshrined in Chapter III or chapter IV is infringed, provided that the alleged action is administrative or executive action. (as per article 17 of the constitution)	In case of any fundamental rights infringed, the party can approach the High Court under 226 or Supreme Court under 32.
3 lists	Employment finds place in the concurrent list III ²	Union lists relevant entries <u>Entry 52-</u> Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest <u>Entry 61-</u> Industrial disputes concerning Union employees. Concurrent list relevant entries <u>Entry 22.</u> Trade unions; industrial and labour disputes. <u>Entry 23.</u> Social security and social insurance; employment and unemployment. <u>Entry 24.</u> Welfare of labour

² Entry 21 of list III

		including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.
Participation of workers in the management	No such specific mention in the Sri Lankan constitution.	<u>Article 43A</u> .mentions that the State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry. Similar provisions are made in the industrial disputes act in order to give effect to this provision.