

Political Right and Right to
strike

- **Right to Strike**

- The word 'strike' comes from 'strican to go' which means to quit, hit or impress in case of a trade dispute. It is the most effective and final resort in the hands of workers to secure economic justice.
- This meaning of strike has undergone various changes across the world and most of the nations have given the right to strike to the workers. The right to strike is a statutory right in India guaranteed under Section 22(1)(a) of the Industrial Disputes Act, 1957.
- The section provides that in case of breach of contract in public utility service, the workers can go for the strike with a prior notice to be given to the employer within 6 weeks of such strike. Right to strike is a very important tool in the hands of workers. It helps the workers to negotiate for the better working environment and proper wages etc. Right to strike is the very essence of collective bargaining.

- **indian Judiciary on Right to Strike**

- Indian judiciary has recognized the right to strike both as a legal and statutory right. Strike is an integral part of wage bargaining in the industrial economy.
- Some limited right to strike was given by the Trade Union Act, 1926. And it was finally made a statutory right under §22 of the Industrial Disputes Act, 1947. Article 19(10)(c) of the Constitution gives freedom to the citizens to form associations and trade unions. But right to strike is an ancillary right.
- If not given, the right to form associations will be hollow and illusory. While recognizing the objectives of IDA of 1947, Apex Court said that strike is a weapon available to workers to force their employer to fulfill workers' demands.

- It is a legitimate and indispensable weapon available to the employees and can be used in case of urgency.
- It will be unreasonable to make the workers to wait for notice in that case. In the case of *Crompton Greaves Ltd. v Its Workmen*, the Supreme Court held that strike is a legal weapon available to workers.
- Whether the strike is justified or not will depend upon the facts and circumstances of each case. Court has also said that sometimes even an illegal strike can be justified.
- In the case of *Indian Express Newspapers Bombay Pvt. Ltd. v TM Nagarajan*, the court held that peaceful strikes can be conducted by the workers to force the employer to fulfill their demands.

- **International Law on Right to Strike**
- International Labour Organization mandates that a right to organize and collective bargaining shall be given to the employees.
- Although, there are no express provisions on the right to strike. But ILO Committee of experts has regarded this right indispensable and an integral part of the right to organize.
- India has implemented and promoted almost all the principles embodied in these two conventions except the right to strike. The preamble of ILO has emphasized on the right to strike as an essence of collective bargaining.

- Universal Declaration of Human Rights, 1948 provides for the protection of workers' interests. They have the right to form trade unions and associations. And the right to strike is a sequel of their constitutional privilege to form association. International Covenant of Economic, Social and Cultural Rights, 1966 also provides for the recognition of the right to strike with the condition that it is in conformity with the law of the member states.
- Even in the US, the National Labor Relations Act, 1935 provides the right to strike to bargain for better wages and working conditions, health and hygiene etc. The US Supreme Court has even read this right under the 14th Amendment of the US Constitution.

- The English judiciary has been very amenable towards the right to strike. They have recognized the said right as justiciable one.
- Lord Denning held that strike is the last remedy and that it has emerged as an inherent right of the worker which forms the essence of collective bargaining. Article 253 of the Constitution gives powers to the Parliament to ratify the international conventions, treaties, etc.
- India has even ratified an obligation to accept international law regarding workers but it has still failed to recognize the right to strike as a fundamental right in India.

- **Strike as a Fundamental Right**
- No fundamental right status has been given to the right to strike. It is still a legal and statutory right. Article 51(c) of the Indian Constitution says that the state shall have to respect for international law and treaties and Article 253 of the Constitution says that such international laws and treaties should be ratified by the Indian parliament.
- All the international laws and conventions such as the International Labour Organization and Universal Declaration of Human Rights, 1948 has adopted in its very basic structure the right to strike.