

LECTURE 10

INDUSTRIAL DISPUTES AND TRADE UNIONS

By

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LEARNING OUTCOMES

On successful completion of this lesson, the learner will be able to:

- LO1:** Define the terms “**Industrial Dispute**” and “**Trade Union**”.
- LO2:** Discuss **industrial disputes** and the **trade union situation in Sri Lanka**.
- LO3:** Discuss the **causes and consequences** of industrial disputes.
- LO4:** Discuss the **importance of industrial peace** and the **importance of ethical and legal compliance**.
- LO5:** Discuss some important **legal provisions** in relation to industrial disputes and labour unions in Sri Lanka.

INDUSTRIAL DISPUTE MEANING

Narrow Sense

A conflict between employers and employees.

INDUSTRIAL DISPUTE MEANING

Broader Sense

Industrial dispute means any conflict or difference in opinion between employers and employers or between employers and workmen or between workmen and workmen which is connected with the employment or non employment or terms of employment or with the conditions of labor of any person.

INDUSTRIAL DISPUTES (2017 – 2021)

Year	Total no. of complaints	Cases Settled		Cases referred for Arbitration		Amount Recovered by Settlement (Rs. Mn)
	No.					
		No	(%)	No.	(%)	
2017	1,721	1,696	98.5	42	2.5	46,735.34
2018	4,780	3,040	63.6	72	2.5	40,669.30
2019	4,422	2,835	64.1	125	4.4	18,356.37
2020	2,763	669	24.2	59	8.8	1,999.64
2021	6,625	2,981	45.0	73	2.4	5,555.53

Source: Industrial Relations Division, Department of Labour -

TYPES OF INDUSTRIAL DISPUTES

There are 4 major types:

1. Interest disputes
2. Disputes over unfair labour practices
3. Grievance or rights disputes
4. Recognition disputes

FORMS OF INDUSTRIAL ACTIONS

- Strikes
- Lockouts
- Picketing
- Boycott
- Gherao
- Go-slow tactics



Including but not limited to

STRIKE ACTIVITIES (2017 – 2021)

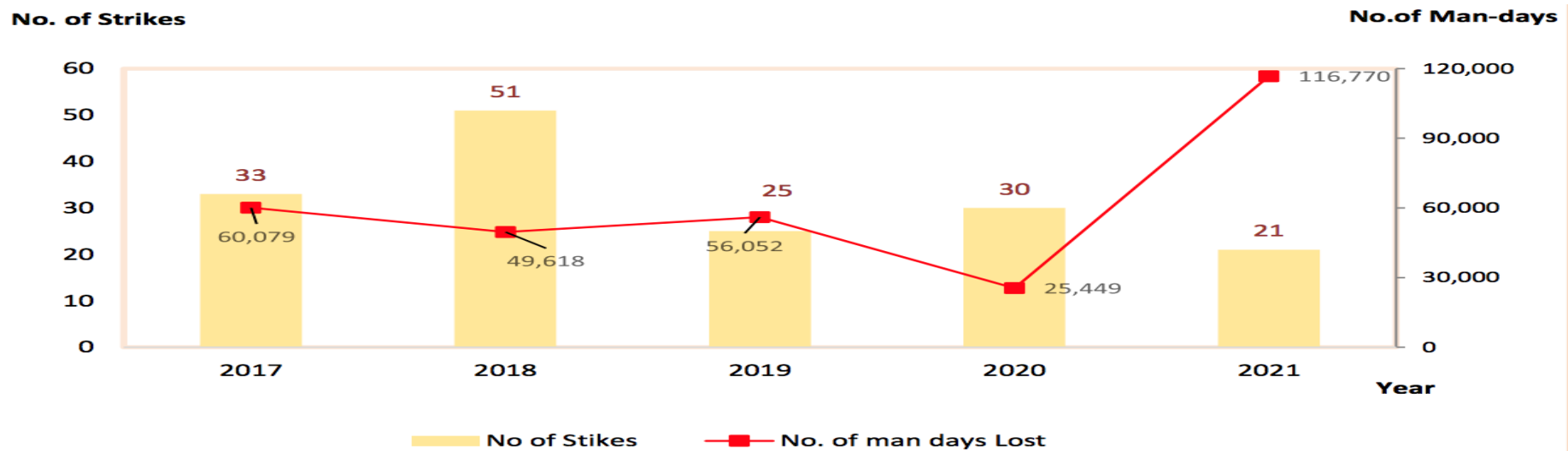
Year	Total		Number of Strikes				Number of workers involved			
	No. of Strikes	Workers Involved	pl	Manu	Cons	Other	Pl	Manu	Cons	Other
2017	34	10,912	12	14	4	4	1,885	5,669	382	2,976
2018	51	12,485	29	14	1	7	6,545	4,360	110	1,470
2019	25	7,611	9	13	1	2	1,981	5,214	100	316
2020	28	6,125	13	12	-	3	1,936	4,040	-	149
2021	21	9,254	8	13	-	-	1,182	8,072	-	-

Source: Department of Labour - Industrial Relations Division

MAN-DAYS LOST (2017 – 2021)

Year	Man-days Lost				
	Total	Plantation	Manufacturing	Construction	Other
2017	60,079	5,643	331,25	1,067	20,244
2018	51,433	33,212	9,965	110	8,146
2019	56,052	28,363	27,173	200	316
2020	22,590	9,375	12,806	-	409
2021	116,770	7303	109,467	-	-

Source: Industrial Relations Division, Department of Labour



CAUSES OF INDUSTRIAL DISPUTES

- Economic causes
- Managerial causes
- Political causes
- Other causes

ECONOMIC CAUSES

- Salary and wage demands
- Increasing cost of living
- Profit sharing demands
- Demand for bonus
- Demand for better working conditions
- Long working hours (at low wages)

MANAGERIAL CAUSES

- Non recognition of unions
- Recognition of rival unions
- Violation of agreements/ code of conduct
- Managers/Supervisors ill-treatment for workers
- Defective hiring, promotions, training etc
- Wrongful retrenchment, demotion, termination etc
- Ineffective leadership
- Restrictions on employee participation in management

POLITICAL CAUSES

- Influence of politics on management
- Influence of politics on trade unions
- Internal conflicts in trade unions
- Trade union movement
- Government decisions/actions

OTHER CAUSES

- Safety of work
- Organizational change
- Beneficiary schemes
- Fringe benefits
- Employee leave schemes

IMPACT OF INDUSTRIAL DISPUTE

Industrial disputes impact on:

- Daily operations
- Employers and their partnerships
- Employees
- Society/public
- National economy
- International affairs

INDUSTRIAL DISPUTES ACT

Industrial Disputes Act No. 43 of 1950 and subsequent amendments

➤ PURPOSE

To provide provisions for the prevention, investigation and settlement of industrial disputes and related matters.

COVERAGE

Industrial Disputes Act No. 43 of 1950

- **PART I:** Preliminary
- **PART II:** Functions and powers of the Commissioner
- **PART III:** Collective agreements and settlements
- **PART IV:** Industrial courts
- **PART IV A:** Labour Tribunals
- **PART IV B:** Retrenchment of workmen
- **PART V:** Essential industries
- **PART VA:** Unfair labour practices
- **PART VI:** General

DISPUTES SETTLEMENT

- Collective Agreement (agreed process)
- Conciliation
- Arbitration
- Adjudication

COLLECTIVE AGREEMENTS

A written agreement between:

- Any employer/ employers' organization
- and**
- Any employee/trade union or trade unions

Related to

- Terms & conditions of employment
- Privileges, rights, duties of all parties
- Manner of settlement of any industrial dispute

CONCILIATION

An informal process of dispute settlement.

- Representatives of workers and employers are brought together before a third party (an independent person or an authorized person).
- Conciliator persuades parties to arrive at an agreement by mutual discussion between them.

ARBITRATION

A formal process following court proceedings.

- An arbitrator or a body of arbitrators officially appointed to settle disputes.
- The conflicting parties agree to refer their dispute to a neutral third party.
- Arbitrator gives his judgement on the dispute.
- Arbitrator refers to a Labour Tribunal.

ADJUDICATION

A formal judgement through the court/justice system

- The ultimate legal remedy for the settlement of an unresolved dispute.
- Referring any industrial dispute to an industrial court, by an order in writing, for settlement.

INDUSTRIAL COURTS

- The Supreme Court
- The Court of Appeal
- The Provincial High Court
- The District Court
- The Magistrate's Court
- The Primary Court

LABOUR TRIBUNAL

A workman or a trade union on behalf of a workman who is a member of that union, may make an application in writing to a labour tribunal for relief or redress in respect of any of the following matters:-

- Termination of service.
- Any gratuity or other benefits due on termination.
- Matters relating to the terms of employment or the conditions of labour.

APPEAL TO HIGH COURT

- If a workman, trade union, or the employer is dissatisfied with the tribunal order, such party can appeal to the High Court for the Province within which such labour tribunal is situated.
- In such cases, a security in cash by the employer and the workman has been declared.

COURT OF APPEAL

- For an application made to the Court of Appeal for any issue of an order of a labour tribunal, the Court of Appeal shall hear and finally dispose of such application within one year of the date on which such application is filed in the Court of Appeal.

APPEAL TO SUPREME COURT

- The workman, trade union, or the employer is dissatisfied with the High Court order or Labour Tribunal order or the order of Court of Appeal may appeal to the Supreme Court.
- Where an appeal is preferred to the Supreme Court against an order of the Court of Appeal, the Supreme Court shall hear and finally dispose of such appeal within one year of the date on which such appeal is filed in the Supreme Court.

RETRENCHMENT OF WORKMEN

- Retrenchment means the termination by an employer of the services of a workman or workmen.
- Where an employer intends to effect retrenchment in respect of any workman employed in an industry, give to that workman **at least one month's notice in writing** of such intention, and, if that workman is a member of a trade union, to that trade union.

STRIKES AND LOCKOUTS

- No employer or employee shall commence, or continue or participate in, or do any act in furtherance of, a strike or a lock-out in connection with any industrial dispute in any essential industry, unless written notice of intention to commence the lock-out or strike had, at least twenty-one days before the date of the commencement of the lock-out or strike.

Written notice of at least 21 days before the commencement

TRADE UNION MEANING

An organized association of workers in a trade, group of trades, or profession, formed to protect its members' rights and interests.

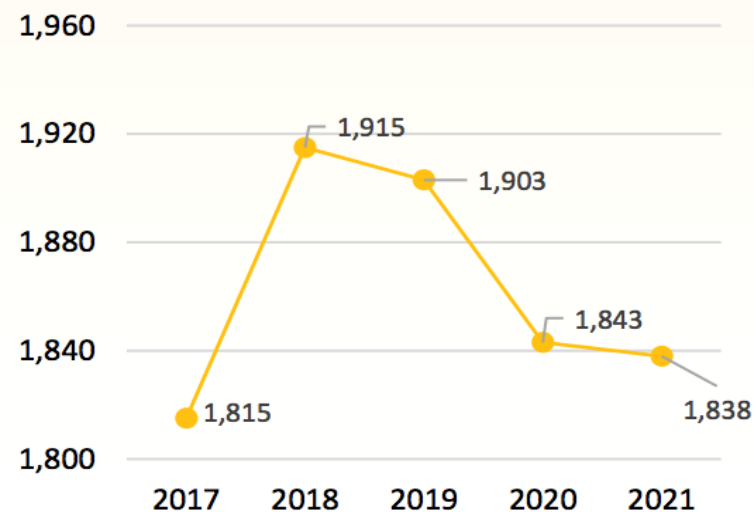
Characteristics?

TRADE UNION SITUATION IN SRI LANKA (2017 – 2021)

Year	Number of Trade Unions		
	Registered (No.)	Cancelled (No.)	Functioning (No.)
2017	115	82	1,815
2018	183	83	1,915
2019	132	144	1,903
2020	105	165	1,843
2021	127	132	1,838

Source: Industrial Relations Division, Department of Labour

Figure 4.11: Total number of Trade Unions Functioning (2017-2021)



ROLE OF TRADE UNIONS

Trade Unions work towards industrial peace

- **Political role:** collective power to influence decisions
- **Market role:** impacting on market rates by wage bargaining
- **Regulatory role:** setting standards for job terms and conditions
- **Service role:** promoting diverse services
- **Enhancement role:** helping to develop the human potential
- **Welfare role:** providing a range of assistance to its members

TRADE UNIONS ORDINANCE

Trade Unions Ordinance No. 14 of 1935

➤ PURPOSE

To provide provisions for the registration, control and cancellation of trade unions.

COVERAGE

Trade Unions Ordinance No. 14 of 1935

- **PART I:** Preliminary
- **PART II:** Appointment of Registrar and other officers
- **PART III:** Registration
- **PART IV:** Special provisions applicable to trade unions of public officers
- **PART V:** Rights and liabilities of trade unions
- **PART VI:** Constitution
- **PART VII:** Property
- **PART VIII:** Funds and accounts
- **PART IX:** Regulations
- **PART X:** Offences and penalties
- **PART XI:** Miscellaneous

FORMING & JOINING TRADE UNIONS

- The Trade Union Ordinance No. 14 of 1935 provides for Freedom of Association and allows workers to form lawful trade unions.
- The Constitution provides for Freedom of Association and allows workers to join trade unions.
- **Membership of Minors:** A person under the age of twenty-one, but above the age of sixteen, may be a member of a registered trade union.

REGISTER OF TRADE UNIONS

- Every trade union established before or after the commencement of this Ordinance shall apply to be registered under this Ordinance within a period of three months reckoned from that date/ from the date on which it was so established.
- Every registered trade union shall have a registered office to which all communications and notices may be addressed.
- The Registrar shall have the power to call for further information, require alteration of name, refusal of registration, withdrawal or cancellation of registration of trade unions.

WHY JOINING A TRADE UNION?

- Economic motives
- Social needs
- Protection of rights
- Better and speedy solutions for grievances & complaints

WHO CANNOT JOIN A TRADE UNION?

- An association or combination consisting of –
- (a) judicial officers
 - (b) members of the armed Forces
 - (c) police officers
 - (d) prison officers
 - (e) members of any corps established under the Agricultural Corps Ordinance

UNFAIR LABOUR PRACTICES

As per Industrial Disputes Act, no employer shall,

- Require a workman to **join** or refrain from joining any trade union,
- Require a workman to **withdraw** from or to refrain from withdrawing from a trade union.
- **Dismiss** a workman by reason only of a membership of a trade union or engaging in trade union activities.
- **Prevent** a workman from forming or supporting a trade union.
- **Interfere with** the conduct of a trade union activities.

QUESTION 1

- **Which act provides legal provisions in terms of minimum retirement age?**
- **What is the minimum retirement age of workers in Sri Lanka?**
- **What is the minimum national wage of Sri Lanka?**

ANSWER 1

- **MINIMUM RETIREMENT AGE OF WORKERS ACT, NO. 28 OF 2021**
- **Minimum retirement age of workers in Sri Lanka**

<i>Age of worker as at the date of coming into operation of the Minimum Retirement Age of Workers Act</i>	<i>Minimum Retirement Age</i>
17 / Nov / 2021	
54 or above and below 55 years	57 years
53 or above and below 54 years	58 years
52 or above and below 53 years	59 years
Below 52 years	60 years

ANSWER 1 Contd.

- **MINIMUM WAGE OF WORKERS ACT, NO. 03 OF 2016**
- **MINIMUM WAGE OF WORKERS (Amendment) ACT, NO. 48 OF 2024**

With the recent passing of the National Minimum Wage of Workers (Amendment) Act No.48 of 2024, the national minimum monthly wage payable to a worker increased from Rs.12,500 to Rs.17,500/- and the national minimum daily wage payable increased from Rs. 500 to Rs.700/-.

Relevant Law	Monthly Wage (LKR)	Daily Wage (LKR)
Minimum Wages Act	17,500.00	700.00
Budgetary Relief 2005	1,000.00	40.00
Budgetary Relief 2016	2500.00	100.00
Total Earnings	21,000.00	840.00

QUESTION 2

- What legal provisions apply to employment of trainees?
- What legal provisions apply to overtime allowance of trainees?
- What is the total no. of training hours?

ANSWER 2

- Employment of Trainees (Private Sector) Act, No. 8 of 1978.
- Overtime allowance of trainees

Where a trainee is engaged by the employer to work after or in excess of the normal hours of work, the employer shall pay the trainee an overtime allowance calculated at the rate of one and a half times the normal hourly rate of the allowance payable to him.

Over time Payment for Hr = Wage for normal Hr x 1.5

ANSWER 2 contd.

➤ Total no. of training hours?

The normal hours of work for a trainee shall not exceed:

(a) Nine hours (inclusive of an interval of one hour for meals) in any one day;

and

(b) Forty-five hours in any one week.

SUMMARY

- Industrial disputes and labour unions are fundamental topics in the industrial relations.
- An Industrial Relations Dispute is a difference of opinion resulting in a dispute between employers or an association of employers with workers or trade unions.
- A trade union, often simply referred to as a union, is an organization of workers who have come together to achieve common goals.
- There are diverse causes and consequences of industrial disputes which can be internal, external or both.
- Trade unions are a very important setup to intervene industrial disputes and promote industrial peace.
- Public sector employees are not covered under the Industrial Disputes Act.
- Industrial relations issues of public sector workers are governed through the Establishment Code (a code of rules adopted by the Cabinet of Ministers).

RECOMMENDED READING

- Armstrong, M. (2009) Armstrong's Handbook of Human Resource Management Practice. 11th Edition, Kogan Page Limited, London.
- Boxall, P., Purcell, J. and Wright, P. (2007). The Oxford Handbook of Human Resource Management. Oxford: OUP .
- Gibb, S. (2007). Human Resource Development: Processes, Practices and Perspectives. Basingstoke: Palgrave.
- Marchington, M. & Wilkinson, A. (2011). Human Resource Management at Work: People Management & Development. 5th Edition. London: CIPD.
- Labour Code of Sri Lanka:
http://www.labourdept.gov.lk/index.php?option=com_content&id=65&Itemid=86&lang=en