STRIKES AND LOCKOUTS IN INDIAN COURTS

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ABSTRACT

The article is a critical analysis of the legal and constitutional treatment of strikes and lockouts in India, and it looks at changing the balance in favour of the rights of workers to collectively exercise industrial action and the right of employers to continue their workflow. It is based on the doctrinal approach since it evaluates statutory measures, including the Industrial Disputes Act, 1947, the Trade Unions Act, 1926, and the Industrial Relations Code, 2020, and relevant judgments. It examines how the Indian courts perceive and use the interpretation of these laws when balancing the labour conflicts and the need to have industrial peace. The analysis demonstrates a rather subtle but uneven judicial approach that, regarding the legal aspect of strikes and lockouts, frequently consists in the apprehension of legality by the character of each case and rather does not rest on the evident legal principle. Although the courts intend to enforce the constitutional ideals, such as this freedom of association and right to livelihood, the legal uncertainty is fuelled by problems of procedural delays and differences in rulings. Such inconsistency affects employers and employees, increasing unpredictability in industrial relations. The challenge proposed in the article is to introduce a more unified statutory and judicial code to define the legal boundaries of a lawful industrial action and employer reactions. This clarity is not only needed to protect labour rights but also to ensure the continuity of business and economic productivity. The research concludes by suggesting specific changes to the legislation in a particular direction to help diminish the scope of ambiguities concerning interpretations, thereby enhancing a more harmonious form of industrial relations rule in India.

Keywords: Strikes and Lockouts, Rights of the Employer, Industrial Relations Code, Judicial Approach, Trade Union Act.

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INTRODUCTION

The Indian strike laws and lockout laws have a central place in Indian labour relationships. These legislative tools not only act as a guideline in solving industrial conflicts but are also the vehicles on which the rights and responsibilities of employers and employees are enforced and challenged. With the changing industrial relations as presented by the economic demands and the needs of labour, the legal and court regulation of strikes and lockouts is all that is central to retaining a peaceful and sound industrial relationship. Such laws are also important in any negotiation and collective bargaining when there are conflicts over employment terms. They do play an important role in the maintenance of industrial peace and protecting the rights of working men and women, as well as the survival of any business.[1] Nevertheless, the development of strikes and lockouts in the judicial interpretation did not go in the same direction. Indian courts have come up with different verdicts depending on the particular case situation, and this has led to unpredictability of the law. Such discrepancies in interpretation evidence the absence of any coherent doctrinal unit and indicate that a more articulate legislative form and jurisprudential case are eminently desirable. The paradoxical nature of courts' decisions is usually found in industrial relations and can make the application of both rights and responsibilities under labour law a tenuous situation. This type of ambiguity promotes not only the lengthy litigation process but also disrupts the balance that has to exist between employee and employer so that they can relate peacefully.[2]

In judicial interventions, the conflicting interests have always been treated as similar efforts have been put to achieve the constitutional values, like the right to livelihood, freedom of association and maintaining public order. However, by so doing, courts tend to use discretionary norms, which are sensitive to their hypothesis, but create legal uncertainty. Such volatility has negative effects on employers, who want to ensure their business is not affected, as well as employees, who rely on the definitive nature of employment law to exercise their rights. Thus, there is a need to have a more organised and predictable legal framework. Realisation that there are trends in the judgement system and realisation of what the reasoning behind important judgments are can help draft legislation that would minimise ambiguity and therefore increase legal transparency. In so doing, the courts and legislators

[1] *The Code on Social Security 2020*, No 36 of 2020, s 62, chrome-extension://kdpelmjpfafjppnhbloffcjpeomlnpah/https://labour.gov.in/sites/default/files/ss_code_gazette.pdf accessed 15 June 2025.
[2] *All India Bank Employees' Association v National Industrial Tribunal* AIR 1962 SC 171; see also *Bharat Petroleum Corp Ltd v Maharashtra General Kamgar Union* (1999) 1 SCC 626

can be involved in shaping a more sensible system that can sustain industrial peace as well as fair labour relations. This would eventually help not only the concerned parties but also society in the economy at large.

HISTORICAL BACKGROUND OF STRIKES AND LOCKOUTS IN INDIA

Strikes and lockouts can be traced back to the colonial period, the late 19th and early 20th century, especially to the era of industrialisation that resulted in exploitative working conditions for workers. The first strike that was reported was in the Bombay cotton mills in 1877, where employees were objecting to inadequate pay and overbearing working conditions. The situation came to be even worse in the 1920s, as there was great labour unrest in a range of industries.[3] To quench these rising industrial conflicts, the British government has enforced the Trade Disputes Act, 1929, which has put stern rules on strikes. But it was accused of being biased in favour of the employers and ignoring the actual plight of the workers.[4] The Act limited the freedom of the workers to strike since they had to indicate in advance, and the state could intervene the resulting in that it reduced the collective bargaining power of the workers. Following independence, the new Indian government wanted to be more balanced. It came up with the Industrial Disputes Act 1947[5], which has been a pillar in the Indian labour law.

This law identified the rights of workers to strike in moderate circumstances and established modes of settling disputes like conciliation and adjudication. One of the largest events was a railway strike of 1974, led by George Fernandes, when more than 1.7 million workers joined. It revealed corruption in the labour relations and became one of the biggest industrial actions in Indian history. The strike was, however, repressed by governments, and this demonstrated that there was a limit to which labour activism was tolerated. After the economic liberalisation in the 1990s, the interpretation of labour law was developing towards the employers. The courts grew more hostile in evaluating the lawfulness of strikes, and informal employment decreased the role of unions.[6] The Industrial Relations Code, 2020, went a step further in making a climate-friendly friendly for employers by further conditioning strikes. In general, the development of strikes and lockouts in India signifies shifts in the state's attitudes

[3] DN Dhanagare, *Themes and Perspectives in Indian Sociology* (Rawat Publications 1993) 127
[4] Bipan Chandra, *India's Struggle for Independence* (Penguin 1988) 239
[5] *Industrial Disputes Act 1947*, No 14 of 1947 https://d.docs.live.net/78e5466adccfb2f3/Desktop/JC/A1.docx accessed 15 June 2025
[6] Pravin Sinha, 'Labour Law Reforms and Labour Rights in India' (2013) 5(1) *International Journal of Labour Research* 45

to labour, shifting first to that of colonial control and then of constitutional defence, and currently into liberalism of the marketplace.[7]

STATUTORY FRAMEWORKS ADMINISTERING STRIKES AND LOCKOUTS

There are mainly two pieces of legislation that govern strikes and lockouts in India, namely, the Industrial Disputes Act, 1947 (IDA), which, in terms of industrial relations management, is the most significant one. According to the Act, a strike is defined in Section 2(q) of the Act as the withdrawal of work of some individuals in a group acting in combination or as a concerted act of refusal to continue working. On the same note, a lockout, by Section 2(l), is the act of an employer closing the place of work temporarily or suspending work or employment of any employees.[8] The Act provides elaborate processes to regulate strikes and lockouts, especially in public utility services that serve basic amenities to the population. Sections 22 and 23 states that before engaging in any strike or lockout in such industries, a previous notice is necessary and also during conciliation proceedings or not less than seven days after such proceeding is terminated.[9] For other industries not considered in Section 22, a strike or lockout during any case of dispute resolution is restricted.[10] Section 24[11] holds any strike or lockout that defies these provisions as illegal. The main aim of this framework is to make sure that industrial action is utilised as a final resort after futile efforts have been made to conciliate. These safeguards have been enforced by judicial interpretations. In Crompton Greaves Ltd v Workmen, the Court held that non-issuance of notice makes a strike unlawful.[12] In Syndicate Bank v. K Umesh Nayak, the Court clarified the difference between a legal and justified strike.[13] The IDA, therefore, tries to strike a balance between the rights of workers and the necessity of having public order and industrial peace.

OTHER LAWS

Trade Union Act, 1926: The Trade Unions Act 1926 forms the background law of the recognition and regulation of trade unions in India. It outlines the process of registering a trade union and gives it legal existence as a separate body. The registered trade unions are

[7] Ibid
[8] *The Industrial Disputes Act 1947*, ss 2(q), 2(l) chrome-extension://kdpelmjpfafjppnhbloffcjpeomlnpah/https://www.indiacode.nic.in/bitstream/123456789/11102/1/industrial-disputes-act-1947.pdf accessed 16 June 2025
[9] ibid s 22
[10] ibid s 23
[11] ibid s 24
[12] *Crompton Greaves Ltd v Workmen* (1978) 3 SCC 155
[13] *Syndicate Bank v K Umesh Nayak* AIR 1994 SC 319

then granted some immunities under Sections 17 and 18 of the Act, which releases them of civil and criminal liability for acts committed in pursuance of a trade dispute, provided they do it in good faith.[14] These immunities constitute legal grounds for the peaceful strikes and protests that trade unions organise. The Act does not, however, directly govern strikes or lockouts. It encourages the system of collective bargaining and the right of industrial democracy, and in so doing provides that the employee has the right to organise and lobby his/her demands to the employer through an established channel[15]. This is an indirect but very important law in the facilitation of a lawful strike by its recognition of trade unions.

Factories Act, 1948: The Factories Act of the year 1948 is a labour welfare legislation that was meant to check the working situation in the factories. It contains prescriptions on matters relating to health (Chapter III), safety (Chapter IV) and welfare (Chapter V) of workers, as well as how the working hours, rest and leave affect workers.[16] Though it does not specifically discuss strikes or lockouts, it affects the relations in the industry by making sure that the working conditions are humane and safe. Failure to comply or breach of these provisions can lead to dissatisfaction among the workers, which can be a cause of industrial unrest, such as strikes. The Act indirectly therefore plays a part towards industrial peace since this decreases grievances that might later pass on to industrial action.

Code on Industrial Relations, 2020: The proposed code on industrial relations, 2020 is a comprehensive one, that would unify and substitute three of the existing laws namely the Trade Unions Act, 1926, the *Industrial Employment (Standing Orders) Act* and the industrial disputes Act, 1947[17] and would modernise the labour laws in terms of ease of compliance procedure as well as handling industrial dispute resolution. Such provisions include that notice of strikes and lockouts should be of 14 days to be notified (Section 62), lays a ban on strikes and lockouts unless conciliation proceedings on certain aspect are in progress or adjudication proceedings exist (Section 74), consideration of a chief negotiating union or council in an establishment upon presence of more than one union in establishment as regards to establishment (Section 14)[18], different standing orders of industrial establishments who

[14] *Trade Unions Act 1926*, ss 17–18 chrome-extension://kdpelmjpfafjppnhbloffcjpeomlnpah/https://www.indiacode.nic.in/bitstream/123456789/13322/1/trade_unions_act_1926.pdf accessed 16 June 2025
[15] ILO, 'Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) https://d.docs.live.net/78e5466adccfb2f3/Desktop/JC/A1.docx accessed 19 June 2025
[16] Factories Act 1948, Chapters III–V
[17] Industrial Relations Code 2020, No 35 of 2020
[18] ibid ss 14, 62

have workers of 300 in numbers (Sections 27 to 32) and again and the last is that it ensures codification.

INTERPRETATION OF THE STRIKES IN INDIA BY THE COURT

The judiciary in India has been very instrumental in defining and explaining the limits of the right to strike. Unilateral right to strike is not a fundamental right in the Constitution, although as an industrial democracy, strikes are known to form part of the entire spectrum of democratic practices in an industrial democracy and should be treated as a legitimate form of workers participating in protest actions. Rather, it is a statutory right, with reasonable restrictions, especially in terms of public safety, discipline and national interest.

All India Bank Employees Association v. National Industrial Tribunal: In this landmark case, the Supreme Court made it clear that although Article 19(1)(c) of the Constitution of India gives people the right to the formation of association or union of any kind, it does not entitle people to the right to strike as a fundamental right. The Court cited that the workers have a right to organise; their methods of pursuing their aims are not guaranteed by the constitution, e.g. strike. Nonetheless, the Court did not disregard strikes as a crucial and permissible way to portray collective concern, particularly in the industrial setting.[19]

B.R. Singh v. Union of India: The Supreme Court also refined this opinion by characterising a strike as a weapon, which the workers can utilise but must do so legitimately and at times, inevitably. Reciting the rule which was stated in the case of *Kameshwar Prasad v State of Bihar*[20], the Court held that a strike is not a fundamental right but merely a permissible activity under some forms of law. Notably, the Court emphasised that striking has to be on a legal basis without interfering with the essential services or serving the larger interests of the populace.[21]

T.K. Rangarajan v. State of Tamil Nadu: This was a crowning point of a stand towards strikes by the government employees. It was the opinion of the Court that it is not the legal, constitutional or moral right vested in government servants to strike. The court pointed out that the rule of service conduct applies to public servants, and any concerted action taken by

[19] *All India Bank Employees Association v National Industrial Tribunal* AIR 1962 SC 171 https://indiankanoon.org/doc/1781810/ accessed 17 June 2025
[20] *Kameshwar Prasad v State of Bihar* AIR 1962 SC 1166 https://d.docs.live.net/78e5466adccfb2f3/Desktop/JC/A1.docx accessed 17 June 2025
[21] *B.R. Singh v Union of India* (1989) Supp (1) SCC 185 https://d.docs.live.net/78e5466adccfb2f3/Desktop/JC/A1.docx accessed 17 June 2025

them must not obstruct the provision of vital services to the citizens. The Court focused on discipline, maintenance of law and order, and administrative efficiency and emphasised that such alternatives as grievance redressal mechanisms should be sought.[22]

Judicial Trend and Legal Position –

There is a definite pattern in these rulings, which goes in such a way that courts in India have always supported the legitimacy of strikes under the following circumstances:

- They are carried through the structure of statutory procedures like those of the Industrial Disputes Act of 1947.
- They are not interfering with necessary services, with the health and safety and order of the population.
- They are applied in the case of the last of the means of negotiation or conciliation.

The abovementioned circumstances are of utmost importance; there is a very significant distinction made by the judiciary between a legal strike (i.e. procedurally good) and a justified strike (i.e. ethically or situationally justified). Strike may be legal but unnecessary when excessive or disproportionate, and may be illegal although necessary in cases where it is procedurally flawed, given that this situation mostly applies to highly protective industries such as banking, transport, and health.[23]

INTERPRETATION OF THE LOCKOUTS IN INDIA BY THE COURT

According to section 2(l) of the Industrial Disputes Act, 1947, Lockout means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him[24]. According to this section, it is legal if the lockout obeys the legal procedure (Sections 22-24) and is made without any mala fide intentions.

[22] *T.K. Rangarajan v Government of Tamil Nadu* (2003) 6 SCC 581 https://d.docs.live.net/78e5466adccfb2f3/Desktop/JC/A1.docx accessed 17 June 2025
[23] *Syndicate Bank v K Umesh Nayak* AIR 1994 SC 319
[24] *Industrial Disputes Act 1947*, s 2(l) chrome-extension://kdpelmjpfafjppnhbloffcjpeomlnpah/https://www.indiacode.nic.in/bitstream/123456789/17112/1/the_industrial_disputes_act.pdf accessed 18 June 2025

Management of Express Newspapers Ltd v Their Workers (1962): In the previous cases, the Supreme Court announced that a lockout declared by the management of Express Newspapers as part of the answer to a long and unjustified strike of workers is legal. It, however, also insisted that this power shall not be used as a way of punishing the acts of unions or avoiding the negotiation methods.[25]

Crompton Greaves Ltd v Their Workmen (1978): Here, mainly, the Supreme Court was concerned with the reason why the employer had initiated such a lockout. A lockout may be an exercise of a managerial prerogative, but it should not be made retaliatory or vindictive. A lockout should only be issued on a reasonable and justifiable basis and not out to intimidate employees or to crush appeals by unions, such as when there is a serious threat of disruption to the business operations, and also when there is misconduct by the employees.[26]

Judicial Trend –

Based on these cases, there is an evident judicial standard: although the law accepts the right of the employer to announce a lockout, the court demands that it should have two conditions:

- It has to be the situation of the last resort, one that can be employed when any possible discussion or conflict resolution has been exhausted.
- It cannot be made out in mala fide, i.e. to undermine or to discipline collective labour activity.

Courts do not only examine the legality (i.e., its procedural aspect), but also the proportionality and the necessity of the lockout. A lockout may be declared illegal and an unfair labour practice under Schedule V of the Industrial Disputes Act in case it is abused arbitrarily or to oppose collective bargaining.[27]

STRIKES, LOCKOUTS AND THE RIGHT OF LABOUR

The Constitution of India has envisioned a framework for the protection of labour rights, both based on national constitutional norms as well as on internationally recognised labour standards. The grants thus formed through Article 19(1) (c) provide the right to all people of the country the right to form associations or unions, which is the constitutional foundation of

[25] *Management of Express Newspapers Ltd v Their Workers* AIR 1963 SC 569
[26] *Crompton Greaves Ltd v Their Workmen* (1978) 3 SCC 155
[27] *Industrial Disputes Act 1947*, Sch V, item 6

collective bargaining and industrial action. This is the constitution that works as the bedrock of the right to organise, form unions, as well as to engage in collective bargaining with the employers to enhance the working conditions of the workers.[28] The right to strike is, however, not directly incorporated under the Constitution as a fundamental right. In All India Bank Employees Association v National Industrial Tribunal, the Supreme Court of India has held that the right to have an association is secured, but the right to strike is a lawful right based on statute and not the fundamental rights under Article 19.[29]

With a global context, the International Labour Organisation (ILO) accepts the right to strike as a fundamental aspect of the freedom of association, notably through Convention No. 87 (Freedom of Association and Protection of the Right to Organise). Whereas India is not a member of Convention No. 87 and Convention No. 98 (Right to Organise and Collective Bargaining), it has given effect to many of its national laws in line with the provisions of the ILO, including the Trade Unions Act, 1926 and the Industrial Relations Code, 2020. To sum up, labour rights in India consist of constitutional provisions, statutory regulations, and international standards, where a balance has to be achieved between the freedom of organising and the necessity of the good of the people and industrial peace.

RECENT MOVEMENTS AND REFORMS

Proposals on Legal and Policy Reform: The newly introduced legislative reforms should be supported by some improvements in the form of institutional and doctrinal changes to enhance the structure of industrial relations in India. These suggestions narrow down on interpretative inconsistency issues, enhancement of legal certainty, and industrial harmony.

Codification of Judicial Precedent: The greatest problem with Indian labour law is the inconsistency of doctrine in the courts. By codification, we are referring to the codification of decisions in commentaries or handbooks that are published by the government, which will help legal practitioners, adjudicators and HR professionals[30] to have uniformity in

[28] Constitution of India, art 19(1)(c) chromeextension://kdpelmjpfafjppnhbloffcjpeomlnpah/https://www.indiacode.nic.in/bitstream/123456789/19151/1/constitution_of_india.pdf accessed 18 June 2025

[29] *All India Bank Employees Association v National Industrial Tribunal* AIR 1962 SC 171

[30] Law Commission of India, 'Need for Statutory Backing for Judicial Impact Assessment' (Report No. 223, 2009) chrome-extension://kdpelmjpfafjppnhbloffcjpeomlnpah/https://legalaffairs.gov.in/sites/default/files/lawcomm.PDF accessed 18 June 2025

interpretation of some of the important decisions like that of All India Bank Employees Association v National Industrial Tribunal or Crompton Greaves Ltd v Workmen.[31]

Distinctive Meanings of "Fair and Unfair" Strike /Lockouts: Confusing statutory phrasing is usually caused by ambiguity. The Industrial Relations Code, 2020, covers the aspect of legality but is not specific in terms of defining what justification/fairness in terms of strikes/lockouts means.[32] Definite definitions can be drawn out of international good practice, including ILO jurisprudence, to minimise judicial discretionary freedom and arbitrary adjudication.[33]

Alternative Dispute Resolution (ADR): By encouraging the use of ADR methods such as conciliation, mediation, and arbitration, as encouraged under section 42 of the Industrial Relations Code, adversarial confrontation can be avoided and industrial peace promoted. ADR as a non-coercive solution to the dispute is also promoted by the ILO[34].

Labour Court Training: Members of the Labour Courts and Industrial Tribunals must be trained frequently on modern labour-related matters. The second national commission on labour had also suggested judicial specialisation and training to make sure that the labour judges could be well-read in the complicated industrial jurisprudence.[35]

Balance of Interests: The labour laws are required to find a balance between the rights of the employees and the responsibilities of the employer. This principle is in line with the Directive Principles contained in Articles 38 and 43 of the Indian Constitution, which focus on social justice and stable working conditions.[36] Balancing the legal position helps in alleviating the potential of exploitation and remaining competitive.

STRIKES AND LOCKOUTS ON THE INTERNATIONAL LEVEL

Strikes and lockouts are among the important instruments in industrial relations and symbolise the dynamic power relationship between employers and employees. The mechanisms at the international level are controlled and regulated by different law tools, namely conventions and interpretations of the International Labour Organisation (ILO). Even

[31] *All India Bank Employees Association v National Industrial Tribunal* AIR 1962 SC 171, *Crompton Greaves Ltd v Their Workmen* (1978) 3 SCC 155
[32] *Industrial Relations Code 2020*, No 35 of 2020, s 62
[33] ILO, 'General Survey on Freedom of Association and Collective Bargaining' (ILO 2013)
[34] *Industrial Relations Code 2020*, s 42
[35] Government of India, *Report of the Second National Commission on Labour* (2002)
[36] Constitution of India, arts 38, 43

though Convention No. 87 of the ILO on Freedom of Association and Protection of the Right to Organise (1948) does not directly refer to the right to strike, the ILO supervisory organs and especially the Committee on Freedom of Association and the Committee of Experts have consistently held that it is an inherent part of the freedom of association or the right to organize.[37] On the same note, lockouts have not received any explicit reference under international labour instruments, but they are considered to be the equivalent of the right to strike on the side of the employer. Although these rights have been accepted, most countries put stringent restrictions, especially in the most critical provision sectors, on the government, as well as areas that relate to national security.[38] European legal orders, like that of the European Social Charter and the case law of the European Court of Human Rights, recognise the right to strike but at the same time accept proportional limitations. Conversely, the author has the freedom of striking but under a limited scope under the National Labour Relations Act, where there are exceptions and prohibitions, e.g. federal employees in states such as the United States. In other countries, such as South Africa and Brazil, rights to strike are secured in the constitution, but economic factors and court decisions tend to hinder their use. On the whole, the strike proved to be an accepted international protection of group bargaining, whereas lockouts are relatively less protected and more disputable. The international vision represents a struggle of industrial harmony and the protection of labour rights, in which national variations depend on political, economic, and social factors. Hence, strikes and lockouts continue to be an important component of labour rights in international law.

CONCLUSION

The current debate between strikes and lockouts in India is accompanied by the process of law-making by the legal and constitutional discourse that entails an ongoing bargaining regarding the competing demands of employment rights and industrial equilibrium. With its historical background expressed in the laws predetermined in the context of the colonial era and developed as a result of the multiple legislative changes and judicial interventions, the Indian law system tried to tread a thin line between the freedoms of the workers to express their rights to protest and the necessity of the employers to sustain their productivity. The history of the country in terms of formulating and codifying industrial relations can be illustrated by the Industrial Disputes Act, the Trade Unions Act, besides the new Industrial

[37] International Labour Organization, *Freedom of Association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO* (5th edn, ILO 2006)
[38] ILO Committee on Freedom of Association, Case No 2820 (2011) (Tunisia)

Relations Code, 2020. Nevertheless, the problem with judicial interpretations is that they have been characterised by inconsistency, whereby courts have tended to differentiate between legality and justification of strikes and lockouts on grounds other than consistency, causing ambiguity and procedural uncertainty. Internationally, the right to strike has been adopted as entailing freedom of association in ILO conventions and case law operating in European regimes, but limits are allowed in the vital service and industry, which is vital to the safety of the populace. Lockouts, in their turn, are much less privileged by the law and are habitually questionable due to a possible abuse. Although these world trends have influenced the Indian approach, it has been more of a statutory and judicial creation than of a constitutionally entrenched approach. Make the shift towards doctrine compatibility, more precise statutory definitions and more adherent adjudicator training, to guarantee a healthy industrial eco-system in India. The key reforms are the alternative dispute resolution mechanisms, codification of the judicial precedents, and the accuracy of the classification of fair and unfair industrial action. With India still being at the stage of development in its socio-economic aspects, domestic systems need to be aligned with international ones and industrial peace and social justice should be guarded at the same time. Finally, it should also be understood that to have fair industrial relations, we need to appreciate strikes and lockouts not only as a means of confrontation but also as a controlled part of a normal, balanced industrial relations system.