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FROM THE INDUSTRIAL DISPUTES ACT, 1947 TO THE INDUSTRIAL RELATIONS CODE, 2020: A LEAP AHEAD OR A STEP BACK IN LABOUR DISPUTE RESOLUTION?

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1. INTRODUCTION

1.1 Brief Introduction of the Topic

From the enactment of the Industrial Disputes Act, 1947, till today, the landscape of labor laws has been in a stage of constant evolution. As the economy and workplace dynamics change, so does the need for an updated legal framework, hence coming into existence is the Industrial Relations Code, 2020. The given project attempts to engage in an extensive comparative analysis of the dispute resolution mechanisms put forth by both the IDA and IRC. The study, therefore, examines the historical background, major provisions, and procedural anomalies that distinguish IRC from IDA and those aspects where IRA introduces new frameworks, attempting to address the lacuna in IDA. It is necessary to study this impact of changes upon workers, employers, and trade unions. The ultimate aim of this project is to add to the already ongoing discourse on labor relations and how far these legal frameworks have worked in achieving harmonious industrial environments either in India or elsewhere

1.2 Object and Purpose of the Study

The study, undertakes a detail comparison of dispute resolution mechanisms in IDA, Act 1947, with IRC, 2020. The identification and examination of the key differences and similarities between these two pivotal legislations will provide insight to understand how IRC has evolved to overcome the deficiencies that were faced under the IDA framework. This analysis also tends to test the efficiency of the updated dispute resolution processes in IRC, which included conciliation, arbitration, and adjudication mechanisms. Further, this research effort attempts to measure implications of changes in these mechanisms upon major stakeholders, such as workers, employers, and trade unions. Ultimately, the research will attempt to extract lessons from how these legal frameworks have impacted industrial relations in general in India, offering deep insight into labor law and its contribution toward guaranteeing equitable workplace practices.

1.3 Research Questions

- What are the key differences in the dispute resolution mechanisms established by the IDA 1947 compared to those in the IRC 2020, and how do these changes affect the efficiency of resolving industrial disputes?
- How do the definitions and scope of industrial disputes in the IDA 1947 and IRC 2020 influence the rights and responsibilities of workers and employers?
- What role do conciliation and arbitration play in the dispute resolution process under both the IDA 1947 and the IRC 2020?
- In what ways do the adjudication bodies established under the IDA 1947 and the IRC 2020 differ in their structure and functioning**?**

1.4 Research Methodology

This study employs a qualitative comparative research methodology, analyzing primary and secondary legal texts, including the Industrial Disputes Act (IDA) 1947 and the Industrial Relations Code (IRC) 2020. Case studies and

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judicial interpretations are examined to illustrate the practical implications of these laws. Additionally, the research involves consulting various blogs and scholarly papers to gather insights on the effectiveness and challenges of the dispute resolution mechanisms in both frameworks.

2. HISTORICAL CONTEXT AND NEED FOR EVOLUTION

2.1 Introduction of Industrial Disputes Act 1947

Before 1947, industrial disputes in India were handled according to the Trade Disputes Act, 1929, which proved to be substantially deficient in many respects as time went on. While the Act restricted strikes and lockouts in public utility services, it had no provisions for binding resolutions of industrial disputes through Boards of Conciliation or Courts of Inquiry. This problem increasingly came to the fore, particularly with the upsurge in industrial unrest immediately after World War I, which brought a rude awakening amongst the preparatory classes. The strikes and lockouts in 1928-29 drew a trial for the need for such legislation to be refined, and finally, in the Second World War, Rule 81A under the Defence of India Rules came up in 1942. This rule enabled the Central Government to refer industrial disputes to adjudicators and to enforce their awards. This rule proved very helpful in maintaining industrial peace during the war. But Rule 81A was to expire in October 1946. The government of the day thereupon continued it temporarily pending a suitable permanent legislation while the above deficiencies remained. The Industrial Disputes Bill, 1946 was thus brought forward to remove these deficiencies. The Bill embraced the principles of Rule 81A and laid out the creation of two new organizations, namely Works Committees and Industrial Tribunals. Works Committee, comprising members from employees and employers, was to be formed for industrial establishments with 100 or more workers, would be established for settling day-to-day conflicts and for establishing harmonious relations. Similarly, the Industrial Tribunals were presided over by one member who held comparable qualifications as those of High Court Judges to adjudicate upon the disputes.[1425] The Bill made conciliation compulsory for public utility services, while for other industries conciliation would be optional; the various steps to be taken are to be so time-limited as to ensure rapid progress. A settlement arrived at by conciliation is to be binding for a stipulated period, and strikes or lockouts are illegal during the conciliation and adjudication process. The Bill also provided that the government could declare any industry a public utility service in emergency conditions. After a long debate with the legislature and after proposing certain amendments, the Industrial Disputes Act, 1947, was born when it received its assent on March 11, 1947, and came into force on April 1, 1947. The Act was designed to render a strong basis for resolving industrial disputes. Though the main aim of the 1929 Act was achieved, its vitality was seriously felt, and, therefore, its suitability for post-war India was highly questionable for maintaining a stable industrial environment.[1426]

2.2 Industrial Relations in India: Pre-1947 to Present

The system of industrial relations in India underwent quite a few changes between 1947 and 2020 due to various political, economic, and social pressures. For instance, in 1947, when independence was achieved, the industrial relations frameworks inherited from the colonial period still remained intact. Indian leaders realized that dignity and rights needed to be accorded to workers and hence framed the Industrial Policy Resolution in 1956. It had emphasized public sector growth and aimed at educating workers about management and labor relations. Accordingly, in 1969, the first National Commission on Labour was established to evaluate and suggest changes in

[1425] 'The Industrial Disputes Act' (*Labour.delhi.gov*) <https://labour.delhi.gov.in/labour/industrial-disputes-act> accessed 25 September 2024

[1426] Testbook, "Industrial Disputes Act, 1947 - Objectives & Features | UPSC" (*Testbook*, July 22, 2024) <https://testbook.com/ias-preparation/industrial-disputes-act-1947> accessed 25 September 2024

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labor policies. In the 1970s, the political atmosphere, particularly during the Emergency imposed by Indira Gandhi, took industrial relations to a whole different direction. Amendments to the constitution brought about worker participation in management as well as insertion of Ch 5B in the Industrial Disputes Act, 1947. The late1970's and the 1980 saw a phase of judicial activism that impacted the Employer-Worker relationship significantly.[1427]

With the growth of the economy, industrial relations became an imperative issue for workplace cooperation and productivity. The rapport between employees and employers was necessary to ensure production on a continuous basis with minimum disputes. Good industrial relations provide a favorable environment for work and thus help in the growth and development of the overall economy. Collective bargaining became an important part of industrial relations whereby workers could negotiate through trade unions to secure their rights and interests. The process made it possible for the voices of workers to be represented in decisions over wages, working conditions, and benefits that contribute to morale and productivity. [1428] Employers started to feel that only a motivated workforce, based on respect and mutual understanding, would help achieve the goals set by the organizations. Over these years, the Indian industrial relations system moved from a tripartite involvement of the government to a more bipartite one in recent decades. While further advances are being made, especially in areas involving protection for workers in both informal and irregular employments, it urgently needs an industrial relations framework to address such challenges. This, therefore, means that a more representative and responsive IRC will ensure that the needs of all stakeholders-workers, employers, and government-will be balanced and taken care of, fostering a more equitable industrial landscape in India. [1429]

2.3 Why the Shift from IDA 1947 to IRC 2020?

The IRC 2020 has been enacted for the countries to overcome the complexities and shortcomings of the IDA, Act 1947, which have been worn out for the fast-changing industrial environment of India. While path-breaking at the time it came into being, the IDA was designed in a different economic milieu and concentrated on settling industrial disputes in a post-colonial economy characterized by small-scale industries. However, with time, the consequence of economic reforms and globalization in India has introduced complex industrial structures that accountability needs in terms of more streamlined and adaptive labor regulations. In response, IRC consolidates and simplifies the IDA with two other major labor laws into one broad framework. One of the key limitations of IDA had been its fragmented nature, which more often than not made compliance hard to manage and impeded efficient dispute resolution. Under the IDA, there was some inconsistency and even overlapping jurisdictions between different labor laws, which caused delays in addressing workers' grievances.[1430] In contrast, IRC works for efficiency in centralizing all the key areas that including trade union registration, standing orders, and grievance redressal mechanisms under one umbrella that helps reduce delays, adding to more transparency in labor administration. Further, IRC introduced progressive measures to address the needs of the modern workforce. It codifies, for example, "fixed-term employment" where firms can hire workers on contract with the same benefits as permanent employees in an effort to balance business flexibility with worker security. Included

[1427] Aishwarya Bhuta, 'Imbalancing Act: India's Industrial Relations Code, 2020' (2022) 65(3) The Indian journal of labour economics <https://doi.org/10.1007/s41027-022-00389-3> accessed 25 September 2024

[1428] Jagsir Singh and B N Guru Nana, 'Industrial Relations In India In The Era of Pre And Post Liberalization' 6(2) (2019) international Journal of Research and Analytical Reviews <http://dx.doi.org/10.1729/Journal.20816> accessed 25 September 2024

[1429] Nimisha Dublish, 'Industrial relations and labour laws' (*iPleaders*, 16 November 2023) <https://blog.ipleaders.in/industrial-relations-and-labour-laws/> accessed 25 September 2024

[1430] Gopal Krishna Roy and Amaresh Dubey, 'A Note on Industrial Relations Code, 2020' 65 (2022) The Indian Journal of Labour Economics <https://doi.org/10.1007/s41027-022-00368-8> accessed 25 September 2024

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in the IRC is also a fund earmarked for laid-off workers for reskilling to make them more employable upon laying off. Second, the IRC strikes a balance between worker protection and operational flexibility for employers by establishing clearer protocols for layoffs and closure, particularly in establishments with more than 300 workers. Overall, the establishment of the IRC was necessary to modernize labor laws in conformity with the contemporariness of the economic and industrial structural profile of India by balancing ease of doing business with increased worker protection. [1431]

3. PROVISIONS OF IDA 1947 IN DISPUTE RESOLUTION

3.1 Definitions and Scope

- **Industrial Dispute:** Any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labor of any person. [1432] It covers all types of disputes that can arise in an industrial setting, including issues related to employment terms and conditions.
- **Conciliation Officer:** An officer appointed by the appropriate government to mediate and promote the settlement of industrial disputes.[1433] Acts as a mediator to resolve disputes amicably before they escalate to formal adjudication.
- **Board of Conciliation:** A board appointed to promote the settlement of industrial disputes.[1434] Consists of representatives of employers and workmen to help resolve disputes through dialogue and negotiation.
- **Court of Inquiry:** A court appointed to inquire into any matter appearing to be connected with or relevant to an industrial dispute.[1435] Conducts inquiries into disputes to ascertain facts and circumstances.
- **Labour Court:** A court established for the adjudication of industrial disputes relating to any matter specified in the Second Schedule.[1436] Handles disputes related to specific issues like the propriety or legality of an order passed by an employer, discharge or dismissal of workmen, etc.
- **Industrial Tribunal:** A tribunal established for the adjudication of industrial disputes relating to any matter specified in the Second and Third Schedules.[1437] Deals with a broader range of issues including wages, hours of work, and other conditions of employment.
- **National Tribunal:** A tribunal established for the adjudication of industrial disputes which, in the opinion of the appropriate government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in or affected by them.[1438] Handles disputes of national importance or those affecting multiple states.
- **Voluntary Reference of Disputes to Arbitration:** The voluntary submission of industrial disputes to arbitration by the parties involved.[1439] Allows disputes to be resolved by a mutually agreed arbitrator outside the formal court system.
- **Award:** An interim or final determination of any industrial dispute or any question relating thereto by any Labour Court, Industrial Tribunal, or National Tribunal.[1440] The binding decision issued by the adjudicating authorities.
- **Settlement:** A settlement arrived at in the course of conciliation proceedings, including an agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceedings.[1441] A mutually agreed resolution of a dispute

[1431] National Board for Workers Education & Development, 'The Industrial Relations Code 2020' (*Ministry of Labour & Employment*, 22 January 2023) <https://dtnbwed.cbwe.gov.in/images/upload/The-Industrial-Relations-Code-2020_GV7I.pdf> accessed 25 September 202
[1432] Industrial Disputes Act 1947, s 2(k)
[1433] Industrial Disputes Act 1947, s 4
[1434]Industrial Disputes Act 1947, s 5
[1435]Industrial Disputes Act 1947, s 6
[1436] Industrial Disputes Act 1947, s 7
[1437] Industrial Disputes Act 1947, s 7A
[1438] Industrial Disputes Act 1947, s 7B
[1439] Industrial Disputes Act 1947, s 10 A
[1440] Industrial Disputes Act 1947, s 2(b)
[1441] Industrial Disputes Act 1947, s 2(p)

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between the parties, either through conciliation or outside it.

- **Conciliation Proceedings:** Any proceedings held by a conciliation officer or Board under the Act.[1442]. The process of mediation and negotiation facilitated by a conciliation officer or board to resolve disputes.
- **Industry:** Any business, trade, undertaking, manufacture, or calling of employers, and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen.[1443] Encompasses a broad range of activities, ensuring that various sectors, including manufacturing, services, and trade, fall under the purview of the Act for resolving disputes.

3.2 Dispute Reporting Procedures

Within the given IDA, various routes avail opportunities for raising of disputes to individual workmen and different trade unions. Under Sec. 2A of the IDA, an individual employee is empowered to raise a dispute in case of any dismissal, retrenchment, or otherwise termination. This amendment had been brought in considering that unless supported by a trade union, the individual grievance of workmen cannot be recognized automatically as an industrial dispute. Now, since a workman is dismissed, terminated, or retrenched, he can directly report the issue to a Conciliation Officer without support from unions. The Conciliation Officer appointed by the government tries to mediate between the individual and his employer in order to find a solution to the dispute. If three months pass after the conciliation began and there is no resolution, the workman can apply directly to a Labour Court or Tribunal for adjudication. But the application has to be made within three years from the date of termination. Such a course would avoid delays in the resolution of individual claims without the intervention of the union with the result that the affected workmen would get quicker access to justice.[1444] In relation to broader issues such as wages, employment conditions, or disciplinary policies often a collective approach may be necessary. This generally requires espousal or support by a trade union or a sizeable group of workmen. The IDA at the outset stipulates that the union, in writing, files the grievance. There are consequences for the reference if there is any delay in its formal support. This formal "espousal" is important because it reflects the collective interest of the workmen as a body, thereby legitimizing the dispute as one which affects workmen at large rather than an isolated issue. By representing the workmen, unions afford organ and muscle, without which negotiations with employers may not be effective. The union would then file the dispute with a Conciliation Officer who would then act as intermediary to facilitate discussion for a peaceful settlement. [1445]

3.3 Conciliation and Arbitration Processes

Under the IDA, it creates avenues for amicable and orderly settlement of industrial disputes, hence maintaining a harmonious atmosphere between employers and employees. One of the main agencies of dispute settlement under the IDA is conciliation. It is a process wherein a neutral third party, known as the Conciliation Officer, helps the disputing parties arrive at a negotiated settlement. Appointed by the government, Conciliation Officers seek to create a conciliatory atmosphere in the industry. The officer investigates, holds proceedings, and persuades the parties to an amicable settlement §s 4, 11-13. If the conciliation work is not successful, the matter may be sent before the Board of Conciliation, a body consisting of representatives of both employers and employees. The board performs a similar function to the Conciliation Officer but deals with more complex disputes that require consideration from numerous diverse

[1442] Industrial Disputes Act 1947, s 2 (e)
[1443] Industrial Disputes Act 1947, s 2 (j)
[1444] Palak Verma and Aditya Tomar, 'Industrial Disputes and Individual Disputes under Industrial Disputes Act, 1947' (*Lawctopus*, 04 April 2015) <https://www.lawctopus.com/academike/industrial-disputes-and-individual-disputes-under-industrial-disputes-act-1947/> accessed 25 September 2024
[1445] 'Industrial Relations- FAQs' (*Ministry of Labour & Employment*, 12 January 2023) <https://labour.gov.in/sites/default/files/Industrial_Relations_faq.pdf> accessed 25 September 2024

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perspectives. Conciliation works effectively because it tends to encourage participation and discussion on a voluntary basis. Voluntary Arbitration is another means of resolving industrial disputes. Under § 10A of the IDA, parties in dispute may voluntarily refer their disputed conflict to an arbitrator of their choice. The arbitrator's decision is binding, and the procedure here is based on mutual consent and acceptance of the decision. Unlike in adjudication, where the judge is provided by the state, under voluntary arbitration, the parties would provide their own arbitrator. This method gained momentum in India because of historical disputes like the plague bonus issue at Ahmedabad Textile Mills, mediated by Mahatma Gandhi. While, on the one hand, voluntary arbitration does permit the process to be more flexible and better adapted to the needs of parties, since they are free to choose an arbitrator in whom they can have confidence, it works effectively only when the parties are willing to participate in that procedure and to accept the decision of the arbitrator. Issues that cannot be solved by conciliation and arbitration, or on which there is a question of national importance or which affects several states, are then referred to the courts for a final determination. Labour Courts, Industrial Tribunals, and National Tribunals have the powers of adjudication in these cases[1446]. In case of failure of conciliation (FOC) a report is sent to Government (IR Desks in Ministry of Labour). The Ministry of Labour after considering the FOC Report exercises the powers available to it under § 10 of the Industrial Disputes Act and either refers the dispute for adjudication or refuses to do so.[1447]

3.4 Role of Adjudication Bodies

It is modelled on a similar provision in the UK Act of 1974. Any industrial dispute may be referred to an industrial tribunal by an agreement between the parties concerned or by the state government. An award must be binding upon both parties to the dispute for a period not exceeding one year and it shall be the duty of the government to enforce it. It would, therefore, be appropriate that the adjudication bodies under the Industrial Disputes Act 1947 play an important role in bringing about a harmonious end to the conflict between employees and employers. The principal adjudication bodies are Labour Courts, Industrial Tribunals, and National Industrial Tribunals, with different roles and jurisdictions. Labour Courts Constituted under § 7 of the IDA[1448], preside over disputes listed in the Second Schedule of the ID Act regarding the legality of employer orders, interpretation of standing orders, wrongful dismissals, and the withdrawal of customary concessions. This court is presided over by a judge who has enough judicial experience and thus that dispute will be resolved amicably. They also play a very important role in the reinstatement of workmen who have been wrongfully dismissed, interpretation and application of standing orders, and giving decisions against the illegality of strikes and lockouts. Industrial Tribunals Established under § 7A[1449], deal with bigger and more complex issues represented in both the Second and Third Schedules, including disputes related to wages in compensation for certain allowances, working hours, rest intervals, and other conditions of employment. Industrial Tribunals, headed by efficient legal officers or judges, ensure that disputes which affect a larger workforce or involve intricate industrial issues are dealt with comprehensively. Indeed, they play an important role in rationalizing industry practices, managing retrenchment and closure of establishments, and maintaining industrial discipline. National Industrial Tribunals Constituted under § 7B[1450], deal with disputes of national importance or those affecting several states' establishments. National Industrial Tribunals, presided over by high court judges,

[1446] Oishika Banerji, 'Mechanism of settlement disputes under the Industrial Dispute Act' (*iPleaders*, 16 December 2020) <https://blog.ipleaders.in/mechanism-settlement-disputes-industrial-dispute-act/#Mechanism_of_Settlement_disputes_under_the_Industrial_Dispute_Act> accessed 25 September 2024
[1447] Industrial Relations- FAQs (n 21)
[1448] Industrial Disputes Act 1947, s 7
[1449] Industrial Disputes Act 1947, s 7A
[1450] Industrial Disputes Act 1947, s 7B

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function in providing uniform decisions on vital industrial disputes with far-reaching ramifications. They are very essential in sustaining industrial harmony at the national level and ensuring that serious industrial disputes that might affect other areas of the country do not spread to blow out of proportion. These are the quasi-judicial bodies with power equal to that of civil courts which conduct proceedings, deliver binding awards, or enforce decisions to achieve the very important goals in maintaining industrial peace and adherence to the law, together with the protection of the rights of workers, with full consideration to the interests of employers. They are a last resort where other dispute resolution agencies, like conciliation and arbitration, have failed to resolve disputes, thereby marking a formal and authoritative end to industrial disputes. [1451]

4. KEY PROVISIONS OF IRC 2020 IN DISPUTE RESOLUTION

4.1 Definitions and Scope under the Industrial Relations Code 2020

- **Appropriate Government:** "Appropriate Government" means,— (i) in relation to an industrial dispute concerning an industrial establishment situated in a State, the Government of that State; (ii) in relation to an industrial dispute concerning an industrial establishment situated in more than one State, the Central Government. [1452]This Determines which government (state or central) has jurisdiction over industrial disputes.
- **Conciliation Officer:** "Conciliation Officer" means a conciliation officer appointed under this Code.[1453] It Outlines the authority and responsibility of officers tasked with facilitating conciliation between parties.
- **Conciliation Proceeding:** "Conciliation Proceeding" means any proceeding held by a conciliation officer or Board under this Code.[1454] This Defines the formal processes involved in conciliation, ensuring structured interactions between disputing parties.
- **Industrial Dispute:** "Industrial Dispute" means any dispute or difference between employers and employers, or between employers and workers, or between workers and workers, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.[1455] Broadens the context for disputes covered under the Code, including a range of employment-related issues.
- **Industrial Establishment or Undertaking:** "Industrial Establishment or Undertaking" means an establishment or undertaking in which any industry is carried on.[1456] It Clarifies what constitutes an industrial establishment, ensuring the Code applies to relevant entities.
- **Settlement:** "Settlement" means a settlement arrived at in the course of conciliation proceeding and includes an agreement between the employer and workers arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer.[1457] It Ensures that settlements reached during conciliation proceedings are recognized and enforceable.
- **Worker:** "Worker" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and includes working journalists and sales promotion employees, but does not include any such person— (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46

[1451] Kumar Harsh, 'Roles of Adjudicating Authorities in Settlement of Industrial Disputes' (*Legal Service India*) <https://www.legalserviceindia.com/legal/article-5349-roles-of-adjudicating-authorities-in-settlement-of-industrial-disputes.html#google_vignette> accessed 26 September 2024
[1452] Industrial Relations Code 2020, s 2 (b)
[1453] Industrial Relations Code 2020, s 2 (i)
[1454] Industrial Relations Code 2020, s 2 (j)
[1455] Industrial Relations Code 2020, s 2(q)
[1456] Industrial Relations Code 2020, s 2(r)
[1457] Industrial Relations Code 2020, s 2 (zi)

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of 1950), or the Navy Act, 1957 (62 of 1957); or (ii) who is employed in the police service or as an officer or other employee of a prison; or (iii) who is employed mainly in a managerial or administrative capacity; or (iv) who is employed in a supervisory capacity drawing wage exceeding such amount as may be notified by the Central Government from time to time.[1458] It Defines the category of individuals protected under the Code, ensuring comprehensive coverage of workers' rights.

- **Employer:** "Employer" means a person who employs, whether directly or through any person, or on behalf of himself or any other person, one or more workers in his establishment, and includes— (i) in relation to an establishment which is a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948 (63 of 1948), the person so named; (ii) in relation to any other establishment, any person responsible for the supervision and control of the establishment.[1459] It Clarifies the responsibilities of employers and their legal obligations toward workers.
- **Industrial Tribunal:** "Industrial Tribunal" means an Industrial Tribunal constituted under this Code.[1460] It Outlines the role of Industrial Tribunals in adjudicating disputes that may not be resolved through conciliation, thus extending the scope of resolution mechanisms.
- **Industry**- "industry" means any systematic activity carried on by co-operation between an employer and worker (whether such worker is employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,— (i) any capital has been invested for the purpose of carrying on such activity; or (ii) such activity is carried on with a motive to make any gain or profit, but does not include — (i) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or (ii) any activity of the appropriate Government relatable to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or (iii) any domestic service; or (iv) any other activity as may be notified by the Central Government. [1461] The scope of "Industry" under the IRC 2020 encompasses systematic activities for producing goods or services that fulfill human needs, excluding charitable organizations, government sovereign functions, and domestic services. This broad definition has significant implications, ensuring comprehensive labor relations coverage across various sectors, fostering accountability among employers, and enhancing workers' rights. It reflects the evolving nature of industries, promoting inclusivity in labor regulations while excluding non-commercial and non-economic activities.

4.2 Conciliation and Arbitration Processes

Under the IRC, conciliation and arbitration are combined by way of an elimination of overlapping, thereby streamlining the procedure. IRC supersedes the twin functions of a Conciliation Officer and Board of Conciliation under the IDA with a single Conciliation Officer, who would intercede between workers and employers to resolve the dispute. The Conciliation Officer assists this process through suggestions and advice, and a mutual agreed-upon settlement is thereby reached. Unlike the IDA that provided for up to 60 days by the Board for conciliation, the IRC requires the resolution of disputes within 45 days or within 14 days if the dispute concerns strike or lockout. The shorter period, therefore, agrees with the volume of the IRC in improving productivity through reducing interruptions of work On arbitration, IRC sustains the encouragement of voluntary arbitration as

[1458] Industrial Relations Code 2020, s 2 (zr)
[1459] Industrial Relations Code 2020, s 2 (m)
[1460] Industrial Relations Code 2020, s 2 (zn)
[1461] Industrial Relations Code 2020, s 2 (p)

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opposed to going to court for formal adjudication. This arbitration has to be mutually agreed upon by both parties, and once agreed, the decision of the arbitrator shall be binding. Online conciliation, however, is another area that IRC does not touch upon- an essential ingredient if adapting dispute resolution is to be in tune with modern times. Unless conciliators are trained in communication with updated systems for virtual mediation, conciliation efforts halfway may result in delays and inefficiencies.[1462] If conciliation and arbitration fail, the dispute escalates to Labour Courts or Industrial Tribunals, ensuring a formal adjudication process.

4.3 Role of Adjudication Bodies

The IRC has a more centralized adjudication mechanism rather than under the IDA. In fact, Labour Courts have been done away with, and all such powers of adjudication have been consolidated into the Industrial Tribunals, separately comprising one-member and two-member benches to deal with specific cases of different natures. Disputes of a general nature are disposed of by a single-member bench consisting of only a judicial member. A bench consisting of two members, one judicial and one administrative, deals with cases regarding standing orders, dismissals, retrenchments, strikes, and closures. A case coming before an Industrial Tribunal is heard before the members, who summon evidence and hear and present arguments presented by the parties concerned, and deliver a verdict to arrive at a fair and legally correct solution. IRC provides, in case of disagreement by two-member benches, the appointment of an additional judicial member by the government so that decisions may be taken by a majority vote.[1463] The IRC empowers tribunals to take up cases directly. This elimination of government referrals minimizes delays and reduces administrative bottlenecks. However, under § 55(4) of the IRC, the government retains the power to alter or reject tribunal awards, a controversial provision that could undermine judicial independence and potentially delay the final resolution.[1464]

5. COMPARATIVE ANALYSIS

5.1 Role of Mediating Bodies

The roles of mediation bodies under the Industrial Relations Code (IRC) of 2020 and the Industrial Disputes Act (IDA) of 1947 exhibit notable differences, particularly in structure and operational efficiency. Under the IDA, the Board of Conciliation and Conciliation Officers played critical roles in mediating labor disputes, with the Board facilitating discussions to promote settlements within a structured timeframe of 60 days. This framework allowed for thorough deliberation, accommodating the complexities often inherent in labor conflicts. In contrast, the IRC abolishes the Board of Conciliation, retaining only the Conciliation Officer, which streamlines the mediation process but raises concerns about the adequacy of this approach. While the IRC aims for expedited resolutions by mandating that conciliation be concluded within 45 days, this rigidity may overlook the nuances of more complicated disputes, potentially compromising the quality of mediation. Additionally, the IRC's reduction of government intervention in dispute resolution is commendable; however, it risks undercutting the supportive role that structured mediation bodies provided under the IDA. Ultimately, while the IRC seeks to modernize and simplify dispute resolution, its emphasis on speed over thoroughness may not always serve the best interests of all parties involved. [1465]

5.2 Role of Adjudicating Bodies

The role of IDA and IRC adjudicating bodies is quite different in their approach towards the settlement of industrial disputes. Whereas

[1462] Mitali Kshatriya, 'Dispute Resolution under Industrial Relations Code: A Mixed Bag of Hits and Misses?' (*The Indian Review of Corporate and Commercial Laws*, 05 May 2021) <https://www.irccl.in/post/dispute-resolution-under-industrial-relations-code-a-mixed-bag-of-hits-and-misses> accessed 26 September 2024

[1463] *Ibid*

[1464] Industrial Relations Code 2020, s 55(4)

[1465] Karanveer Khaira, 'Dispute Resolution In IR Code And ID Act – Analysis Of Differences And Their Impact' (*Centre For Labour Laws*, 15 April 2023) <https://cll.nliu.ac.in/dispute-resolution-in-ir-code-and-id-act-analysis-of-differences-and-their-impact/> accessed 26 September 2024

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under IDA, the right of adjudication to settle disputes between employers and employees is given to Labour Courts, Industrial Tribunals, and National Industrial Tribunals at different levels. Each such body has a different jurisdiction, and the Labour Courts deal exclusively with certain kinds of disputes, such as cases on wrongful dismissals and interpretation of standing orders, whereas Industrial Tribunals deal with more complicated problems relating to wages and conditions of employment considering the surroundings of individual cases. This kind of arrangement encourages specialized adjudication. On the other hand, IRC provides for centralized adjudication by doing away with Labour Courts and investing all powers in Industrial Tribunals. While in doing so, the latter may lessen administrative pressures, there is a parallel risk of losing some of the specialization that is inherent in the IDA setup. Even the two-member benches of IRC, comprising one judicial and one administrative member each, hearing disputes on standing orders and dismissals, run a potential risk in the conflict of interest in decision-making. Also, IRC authorises the tribunals to take up cases directly and thereby bypass the delaying mechanism of government references under the IDA. This itself lends credence to fears of a speedy procedure being sacrificed at the altar of due consideration and fair verdicts. The other basic flaw in the IRC is that the government retains in § 55(4)[1466] authority to modify or even set aside the awards made by the tribunals-a negation of judicial autonomy. Admittedly, the above provision has been contentious, as it may be seen to overstep the mark on the part of the government's adjudication process to call into question the neutrality of the outcome. Generally, while efficiency could be achieved by the IRC, there is a loss of checks and balances inherent in a more diversified adjudicatory framework under the IDA, and this runs adversely to fair labor relations and workers' rights.

5.3 Time Periods and Deadlines

The Industrial Relations Code, 2020, considerably alters the broad contours of the procedural landscape carved out by the Industrial Disputes Act, 1947, particularly with regard to timelines and deadlines concerning the resolution of industrial disputes. In the procedure followed under the IDA, there was essentially no system unless strictly speaking, the lack of dead-lined timelines usually caused prolonged litigation. For example, § 10 of the IDA [1467]allowed the reference of disputes to a tribunal without specifying any time limit for disposal of such disputes. This, in operation, resulted in immense delays in disposing of the cases. In contrast, the Industrial Relations Code has better clarity on timelines to expedite dispute resolution. Under § 6[1468] of the Code, conciliation proceedings are to be completed within 45 days, extendable by another 15 days if the appropriate government so pleads. This is a great improvement from the previous Act, which had allowed conciliatory efforts to drag on without any deadline. Moreover, § 16 mandates a reference to the tribunal for adjudication within a certain time, so that the dispute does not continue beyond a certain period of time. While the IDA principally dealt with disputes about layoff, retrenchment, and closure, the Industrial Relations Code has gone further to include the provision for standing orders under § 27[1469] and redressal mechanisms for grievances, infusing greater responsibility upon the employers and developing a more harmonious industrial relations scenario. The change reflects an understanding of the nature of contemporary industrial relations, which emphasizes timeliness and procedure. Therefore, the Industrial Relations Code, 2020, has brought significant evolution in terms of approach towards industrial disputes in India by way of efficiency and clarity as far as timelines are concerned.

[1466] Industrial Relations Code 2020, s 55 (4)

[1467] Industrial Disputes Act 1947, s 10

[1468] Industrial Relations Code 2020, s 6

[1469] Industrial Relations Code 2020, s 27

6. CONCLUSION

The comparative review of the Industrial Disputes Act, 1947, vis-à-vis the Industrial Relations Code, 2020, reveals a metamorphosis into an altogether new concept for resolving industrial disputes within India. Both have strengths and weaknesses with regard to the role of mediating and adjudicating bodies, time durations regarding dispute resolution, and procedural efficiency in general.

While IDA's requirement for the resolution of any conflict with a structured mediation framework and diversified adjudicatory bodies easily fell victim to prolonged timelines and bureaucratic delays, the IRC tries to avoid such weaknesses, where an expedited procedure also includes conciliation and adjudication with certain time limits. This is highly commendable because the IRC approach wants the expedited resolution of the dispute, which suggests a certain risk related to a loss of thoroughness and specialization.

The limiting of government intervention and the centralization of adjudication powers under Industrial Tribunals hint at a properly modern rule of law. However, herein, the apparent capacity of the government to overstep and alter judicial decisions of tribunals under § 55(4) might raise a specter in terms of judicial independence and impartiality of results.

Finally, IRC is the major revolution in labor legislation in India, which intends to promote better and harmonious industrial relations. Efforts toward increasing efficiency thus mean that there is a need to ensure that speed is not adopted at the expense of fairness and comprehensiveness. Considering that industrial relations are constantly changing due to changes in both economic and social dynamics, the IDA and IRC also need to adapt to such changing contexts if the rights and interests of both parties involved are to be protected. This contribution further adds critical weight to the discussions on labor relations in India, given the need for balanced and effective legal frameworks that ensure a fair deal for workers and employers alike.