

Impact of Illegal Lockouts on Indian Economy

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Abstract

This research mainly investigates about the evolving landscape and the profound impact of illegal lock-outs. It mainly aims to provide a comprehensive understanding to the readers regarding the procedures involved under the Industrial Disputes Act 1947, in declaring a valid and legal lock-out by examining the social, economic, and psychological dimensions which play a major role. It also discusses the impact of illegal lockouts on wages, as well as the dispute resolution mechanism for an amicable resolution of issues between the employer and industry workers. It delves upon the legal implications surrounding unlawful lock-outs by shedding light on the subtle factors contributing to such occurrences. Through a conscientious examination of relevant statutes, case law, and real-life scenarios, this research paper provides a comprehensive understanding of how lock-outs are used as a coercive weapon by the employer of an industry against the workmen and also the legal challenges associated with the unlawful lock-outs.

This study also draws a comparison between several nations across the globe to provide a clear and crystal understanding regarding distinct instances of lock-outs. As Indian economy is largely based upon industries, there are multiple instances of lock-outs which are enforced by the employer of an industry against the workmen. The findings of this research paper contribute to a subtle understanding of the current situations regarding the illegal lock-outs, informing the legal professionals, policy makers and stake holders regarding the proactive measures and appropriate steps which had to be taken by them to address the evolving challenges of unlawful lock-outs to seek a better recourse against those unjust practices. Examining the legal frameworks, socio-economic impact and potential solutions it is crucial for fostering fair industrial practices and also to maintain a balanced and productive working environment. It also informs that the dispute resolution mechanism and the concerned authorities involved in settlement of disputes regarding unjust industrial practices, must work with an aim to provide a speedy justice which helps in promoting industrial democracy especially in India.

Keywords: lockouts, strikes, economy, disputes, industry

Introduction

When the industry's employers impose lockouts, the main threat is job security for employees who rely on the industry for a living. In addition, in all cases, industries do not enforce lockouts legally. Workers in industries, in general, form trade unions to protect their rights and advance the interests of their members in the workplace. However, there are many cases where the relationship between the employer and the employees of the company becomes strained. The outcome of this is the frequent strikes by the trade union which comprise the workers and subsequently the lockout is enforced by the industry. Also, in certain cases where the industries may enforce lockouts to lay off their employees when the company is facing a

huge loss from which it would be difficult to recover. These lockouts also lead to an overall impact over the economy of the nation, especially in cases of public sector industries. Illegal lock-outs also present a challenge within the realm of labor and industrial relations. Also, by using lockouts the right of collective bargaining by the workers gets diminished and extinguished. Also, in many of the industries there are no proper committees for managing the affairs of the industry as well there is a lack of workers participation in the industrial management particularly during decision making.

In an industrial context, illegal lock-outs refer to unauthorized actions taken by employers to prevent employees from entering and accessing the workplace. This involve changing locks, disabling access cards, or engage in other measures without legal justification. Such actions violate labor laws and regulations exposing the labors to liabilities.

Definition of lock-out

A lockout is defined in Section 2(1) of the Industrial Disputes Act of 1947 as “temporary workplace closure, suspension of work, or an employer's refusing to carry on employing any number of workers during their employment period”.

Lockouts are generally defined as temporary closures of workplaces or work stoppages. It may continue till the workers accept the new employment conditions of the employers in an industry and till the time when they sign a contract agreement. The lockout continues to be in force if the new contract agreement is not signed. Lockouts also affects the reputation of the particular industry. Illegal strikes, regular strikes, wild cat strikes, sit down strikes and conflicts between the interests of the employers and workmen of the industry. However, it is not permanent winding up of the industry. The culmination of both internal and external factors which influence the decision of the management in declaring lock-out of the industry. A lock-out declared in consequence of an illegal manner is widely condemned because it eventually leads to high rate of unemployment affecting the livelihood of the workers.

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Effect of lock-outs over wages

While specific historical events related to illegal lock-outs in India may not be widely known, labor strikes and disputes have been throughout India's industrial history. One of the most notable incidents was the Maruti Suzuki labor unrest in 2012. In this case, the management of Maruti Suzuki India Limited declared a lock-out at its Manesar plant in response to a labor dispute. The conflict arose from issues such as wage demands, working conditions and the formation of a new union. This lock-out resulted in a prolonged standoff between the workers and the management, showcasing the complexities of industrial relations in India. This event resulted in huge discussion on the worker's rights, the role of unions, and the need for a balanced approach in addressing labor disputes within the Indian context.

Where workers declare illegal strikes against the industry, and where both parties, i.e., the employer and the workers, are at fault, the workers are entitled to half of their wages during the lockout period. In the

case of **Indian Marine Service pvt. Ltd V/S Their workmen**¹ it was determined that the employer could not deny them wages for the same, and that the workers were entitled to full wages for the duration of the lockout if it was unjustified. Workers are not required to report to work or participate in conciliation proceedings during illegal lockouts. The employer cannot also refuse to pay the same.

Even during the covid -19 pandemic which caused a nation-wide lockdown, many of the industries were closed. The Government of India issued an order under section 10(2)(1) of the Disaster Management Act, 2005. The state and UTs were directed to issue additional orders requiring employees of industries and commercial shops to be paid in full during the lockdown. It was also determined that failure to pay wages constituted an offense. Furthermore, it was determined that the 'no work, no pay' principle could not be applied during times of national lockdown.

This was challenged, and the Supreme Court issued an interim order stating that private establishments and industries were to negotiate pay terms with their employees and enter into pay settlements, thereby withdrawing the previous order of compulsory wage payment.

On 16th November 1984, in the case of **General labor Union (Red flag) ... v/s. B.V. Chavan and others**², The Supreme Court of India ruled that implementing and extending an illegal lockout is an unfair labor practice.

When lock-outs are deemed as illegal

"S.24(1) -A lockout is considered unlawful if:

1. It is started or declared in violation of sections 22 and 23; or
2. It is continued in violation of an order issued under subsection (3) of section 10 or subsection (4A) of subsection 10 A].

S.10(3)- When a labor disagreement is referred to a board, labor court, Tribunal, or National Tribunal according to this section, the appropriate government agency can issue an order prohibiting the continuation of any strike or lockout that was in effect on the date of the reference.

(2) Where a strike in response to an industrial dispute has already begun and is still in effect at the time the dispute is referred to a board, an arbitrator, a labor court, a Tribunal, or a National Tribunal, the continuation of such strike shall not be deemed illegal, provided that such strike or lockout did not begin in violation of the provisions of this act and that its continuation was not prohibited under sections 10(3) or 10(4A).

(3) A strike declared as a result of an illegal lockout is not considered illegal."

Penalties and sanctions for illegal lock-outs

- **Prohibition of financial aid to illegal lock-outs:** "No one will intentionally spend or apply money to directly support any illegal lockout"³ .
- **Penalty for illegal lock-outs:** "Any employer who begins, continues, or otherwise acts in furtherance of an illegal lockout under this act faces up to one month in prison or a fine of up to Rs.1000, or both"⁴.

¹ 1963 AIR 528,1963 SCR.

² 1985 AIR 297, 1985 SCR (2) 64.

³ Prohibition of financial aid to illegal lock-outs (S.25).

⁴ Penalty for illegal lock-outs (S.26).

- **Penalty for instigation:** “Anyone who causes or incites others to participate in an illegal lockout under this Act is subject to prosecution. Penalty of up to 6 months in prison or a fine of up to Rs 1000, or both”⁵.
- A person who intentionally spends or uses money to directly promote or assist an illegal lockout may be subject to imprisonment for a maximum of 6 months, a fine of up to Rs. 1000, or both.

Illegal use of lock-outs as a coercive weapon by the employers

“A lockout is a means that employers can use to convince employees to accept their demands by using coercive force, just as a strike is a tool that employees can use to enforce their industrial demands. Both strikes and lock-outs are used as weapons when there is a mutual disharmony between the workers and the employers in an industry. It must, however, be subject to the appropriate provisions of the ID Act. If it is contravening the provisions of chapter 5 of the Industrial Disputes Act, it would be deemed as illegal lock-outs and illegal strikes and the party who engage in such illegal lock-outs or strikes would be liable for punishment as mentioned under the section 25-28 of the ID Act.

In the case of **Kairbetta estate vs Rajamanickam and others**⁶; Chapter Five, dealing with Strikes and Lockouts, clearly shows the contrast between the two weapons and the limitations within which each must be used. The Supreme Court acknowledged that “in the conflict between capital and labor, labor frequently employs the strike as a tool, making it as a potent and utilized weapon”. Industries must have a set of prescribed set of guidelines while considering workers for employment. In addition to that the employer should consider factors such as experience, qualifications and skills relevant to the industry as well as to ensure the compliance of legal requirements. Also, the person employed by the employer must have the ability to contribute to the company’s goals. In **Tata iron and steel company vs their workmen**⁷ “it was held that, mere refusal to give employment is not lock-out”. There should be certain demand/demands by the employer while considering the worker for employment. Also there must be certified guidelines along with qualifications which had to meet the requirements of the organization. It is beneficial mainly because it avoids industrial disharmony and ensures a healthy working environment for the workers by improving their relationship and understanding with the employers. In **Lakshmi Devi sugar mills Ltd vs Ram Swarup case**⁸, “it was held that in the event of a lockout, working conditions do not change to the detriment of the workers”. A lock-out can also be adopted as a security measure and in certain circumstances it may not fall under the ambit of s.33 and therefore no permission is required for declaring a lock-out under that section.

Procedure for declaring a legal lock-out

S. 22 (2) of ID ACT 1947: -

Employees of a public utility service are prohibited from engaging in any form of illegal lock-out: -

1. Without providing the employer with six weeks' notice of the lockout, as provided in this section; or
2. within 14 days of receipt of such notice; or
3. prior to the expiration of the lockout date mentioned in the aforementioned notice; or

⁵ Penalty for instigation, etc.-(S.27).

⁶ (1960) cited in Malhotra (1985:297).

⁷ (1967) ILLJ 581 Pat.

⁸ 1957-1 LLJ 17 SC.

During the pendency of any negotiation process before a conciliation officer, and for 7 days after the conclusion of such proceedings.”

Instances of industrial lock-outs across the globe

Ireland

The Dublin lockout was a major labor dispute involving 20,000 workers and 300 employers in Dublin. The strike, which lasted from August 26, 1913 to January 18, 1914, was Ireland's longest in history. The right to unionize was the main point of contention.

United States

Under federal labor law, an employer in the United States is only permitted to hire temporary replacements during a lockout. An employer may legally hire permanent replacements during a strike, unless it is an unfair labor practice strike. In the United States, unemployed workers may receive benefits during lockouts, but they do not receive unemployment benefits during strikes.

Australia

In 2011, Qantas declared a lockout of all domestic employees in response to ongoing union industrial action. All flights were canceled, forcing the entire fleet to be grounded for several days.

Another significant example is the industrial watershed event, which resulted in the sacking of all employees and the imposition of an industrial lock-out on wharves throughout Australia. Patrick Corporation, a stevedoring company, was in charge of enforcing the lockout.

Canada

Another classic case in point is the Canadian Broadcasting Corporation, where CEO Robert Rabinovitch locked out the entire public broadcasting industry over future hiring practices.

Denmark

The Danish Union of Teachers declared a lockout for over 60,000 primary school teachers across Canada on April 2, 2013. Also, the students were the victims of lock-outs and felt very difficult to pursue their education as a result the enrollment rates in schools dropped hugely. The main source of contention was the local government association's desire for teachers to work more hours. The Danish Union of Teachers (DFL) was opposed and couldn't come up with a solution.

India

Bosch Limited, a German-based engineering firm, laid off 2,500 workers in Adugodi, Bangalore, in 2011. The workers carried out “tools down strike”, where they refused to function their regular practices. It was the workers' reaction to the company's unannounced contracting out of an entire department's work. When they turned out for the next day of the work it was found that they were all the machinery was removed and it was announced that they would be laid-off. The company official said that the decision was primarily because of the go-slow strikes, they lost an order worth Rs.30 crore from Maruti Suzuki the previous month, so it was considered as a permanent loss.

Bosch, the Indian subsidiary of the German engineering conglomerate, is the country's largest manufacturer of diesel fuel injection systems. In the preceding year 2010, it had over 25,000 employees and a whopping revenue of over 92.70 billion rupees.

In 2015, the same Bosch Auto component declared a lockout at its Jaipur plant due to employee unrest. The plant, which had a history of labor issues, was forced to close for an extended period of time after a lockout was declared against the labor union and workers at the company's Jaipur plant engaged in a go-slow action that reduced profit by 70%.

As a result, the union has been on an illegal hunger strike since April 2, 2015, according to the industry. It was also stated that the industry made the decision to lock out after carefully considering the safety of its employees, the interests of its customers, and the overall impact on the industry.

Procedures and dispute resolution mechanism related to lock-outs

1. **Issue of notice:** Before declaring a lockout, the employer must send a notice to the workers in the industry as well as the appropriate government authorities outlining the reasons for the proposed lockout and the date on which it must be declared.⁹
2. **Application for conciliation:** Following the issuance of the notice, the concerned industry's employer must request that the conciliation proceedings be held. Under the ID Act, the conciliation officer is an important authority with 'Quasi-judicial' legal authority. He acts as a mediator and negotiator to settle disputes between the parties.¹⁰
3. **Prohibit** lock-outs when the **conciliation proceedings** are **pending**, the employer must not declare a lock-out in an industry.¹¹
4. Following the conclusion of the conciliation proceedings, there is a 14-day waiting period during which the parties reach an amicable settlement through continuous negotiations.¹²
5. **Declaration of a lock-out:** If negotiations fail and the dispute is still unresolved after the waiting period, the employer may declare a lockout. The lockout must be restricted to the industry where the dispute has arisen. This lockout would be considered a legal lockout.¹³
6. The **employer** must provide an **information** about the reason for lock-out to the **government authorities**¹⁴.
7. **Penalties for illegal lock-outs:** If the lockout is declared without adhering to the procedures outlined above, it is regarded as illegal, and the employer may face penalties such as worker compensation and fines¹⁵.

CASE LAWS (regarding non-compliance of lock-out procedures)

- In **Bangalore woolen, cotton and silk mills**¹⁶ case, according to the Supreme Court, "an industry's employer must comply with the correct steps for declaring a lock-out, and any deviation from that process would render the lock-out illegal".

⁹ S. 22 of the ID Act.

¹⁰ S.22(3) of the ID Act.

¹¹ S.22(4) of the ID Act.

¹² S.22(1A) of the ID Act.

¹³ S.22(2) of the ID Act.

¹⁴ S 25C of the ID Act.

¹⁵ S.26 of the ID Act.

¹⁶ AIR 1958 Kant 26, AIR 1958 Mys 26, (1957) 35 Mys LJ.

In **Express Newspapers pvt. Ltd vs the presiding officer**¹⁷, The Delhi High Court ruled that an employer cannot call for a strike while conciliation proceedings are taking place.

Bargaining Blades: The dual impact of lock-outs in industrial relations

The term “**bargaining blades**” denotes the sharp, double edged nature of lock-outs, indicating that where they may be a tool for negotiation and leverage in labor disputes, they also have consequences and effects on both employers and employees. From the perspective of the employers in an industry, a lockout is a necessary tool for dealing with labor disputes and protecting the employers' interests. Employers use it as a last resort when negotiations with employees fail. Employers in a few industries believe that lockouts are a good business strategy because they limit workers' collective bargaining power. They also believe that lockouts keep employees from engaging in illegal strikes. In some industries, it may be used illegally by employers as a tool to force workers to accept unfavorable working conditions.

Employers' unfair advantage over workers is viewed as an unfair advantage by labor. As lock-outs are used as tools of suppression of the worker's demands in an industry. Also, it curtails their right to form trade union for collective bargaining. Therefore, it is necessary to improve the settlement mechanisms for resolving industrial disputes because of the dynamic and evolving industrial landscape in the modern period. The **ADR**¹⁸ methods like arbitration, mediation and conciliation must be properly implemented to resolve complex problems in an industry.

Also, there must be proper talks among the both employers and workers in an industry to ensure that the principles of natural justice are not violated. When the lock-out is used both wisely and effectively (in a legal manner) then there can be a harmonious industrial relation and a sound work environment.

Impact on the Indian economy

Industries in Indian economy function well mainly because of the efforts put by the workman also along with the effective management by the employers of the industry. There are two broad sectors namely organized and unorganized sector. In an unorganized sector there is no job security for the workers. Whereas in an organized sector there is always a job security for the workers who are employed and they are not laid off superfluously or there is no enforcement of illegal lock-outs against the workers. But in certain situations, legal lock-outs can be enforced against the workers after a proper notice provided by the employer of an industry. In India, there are few instances where lock-outs can be enforced against collective bargaining of the workers in an industry, where situations may turn more worse when they decide to hold strikes or engage in other illegal methods to satisfy their demands. Illegal lock-outs in India can have severe consequences on the economy.

They disrupt business operations, lead to loss of productivity, and contribute to unemployment. The affected industries may face financial losses, which has an impact on their contribution towards the national GDP. Additionally, such instances may lead to the erosion of investor confidence, hindering foreign and domestic investments which ultimately results in the ripple effect on various sectors slowing down the economic growth of the country. The notable incidents were the **Maruti Udyog Limited plant** in Gurgaon in 1982 and the **Tata Nano plant** in Sanand, Gujarat in 2016 where the prolonged labor strikes and subsequent delay had significant repercussions, causing production delays and impacting the

¹⁷ AIR 1964 SC 806,1964 (8) FLR 289.

¹⁸ Alternative Dispute Resolution mechanism.

automotive industry. These incidents also affected the supply chains and the sectors depending upon the disrupted industry.

Drawing A Curtain; a Parting note

In summary, the impact of illegal lock-outs on the economy and the labor relations are undeniable. Lock-outs as a whole are generally not violative of worker's rights, but they may be either legal or illegal. Lock-outs when enforced illegally they violate not only the rights of the workers but also, they are illegal as they contravene the provisions of the Industrial Disputes Act. When an employer adheres to the provisions of the ID Act and follow proper procedures, the lock-out though enforced will be deemed as legal lock-out. This research has thrown light on the multidimensional consequences ranging from economic disruptions to the strained relationship between the employer and the employee in an industry. Addressing the underlying causes, promoting fair industrial practices and cultivating open communication channels are crucial steps toward diminishing the adverse effects of illegal lock-outs. Mutual understanding it helps in maintaining a balanced and harmonious industrial environment along with which the employers, policy makers and the workers can collectively contribute to a more robust and an equitable economy.

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