

EMPLOYEES' RIGHT TO STRIKE IN SRI LANKA - A STATUTORY DECORATION?

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ABSTRACT

The statutory Right to Strike plays an important role in the consideration of trade union actions where the said right is utilized to demand solutions to employees' tribulations. As per S.R. De Silva (1973) "The right to Strike is one of the most fundamental rights enjoyed by employees and their unions, and is an integral part of their right to defend their collective economic and social interests". Although some indications are evident in Sri Lankan labour related enactments, "Right to Strike" has still not clearly recognized in any one of them. Yet it is sought under the study whether the statutory right to strike is available to Sri Lankan employees and whether such implied recognition is sufficient. Methodology followed in the study is exploratory where documented sources are analyzed to find-out the legal standing of right to strike. Related Legislations and judicial decisions were used as primary sources and as secondary sources commentaries, journal articles and conference proceedings would be utilized in this study. For the purpose of comparison of legal regimes it was selected United Kingdom and South African Law on Strikes. Recommendations would express required legal framework to Sri Lanka to avoid the right to strike being a worthless statutory decoration based on the comparative study.

Keywords: *Collective action, Employees' rights, Strikes, Trade unions*

1. INTRODUCTION

Strikes can be simply identified as a mechanism of demanding and winning the rights of employees. Often strikes are lead by Trade Unions where people get together and fight for their own employment conditions. The term 'strike' is defined in the Trade Unions Ordinance No. 14 of 1935 in Sri Lanka in Section 2 as the cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding of any number of persons who are, or have been so employed, to continue to work or to accept

employment. Moreover few indications as to availability of the tool of strike are evident not only in Trade Unions Ordinance but in other Sri Lankan labour related statutes also. Yet it is debatable whether this mechanism is a right to the employees. Reason is that no statute has recognized "The Right to Strike" in crystal clear words.

This paper intends to discuss the full picture on the topic under consideration on two main sub themes.

1.1 Trade Unionism

Registration of Trade Union system was