



## Harmonizing International Arbitration Framework: A Critical Analysis over Industrial Dispute Act, 1947 and Plantation Labor Act, 1951

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**Abstract** — Industrial Dispute is a shared cutting-edge issue in the factory. Industrial Dispute, cutting-edge, the tea plantations remained instigated in 1948. We all see that tea is recognized as the most widely consumed beverage in the world after water. Industrial arguments continue fairly communal, cutting-edge, and the sweatshop. Industrial arguments continued the material of nervousness, meanwhile preceding so frequent ages. This not only substituted by means of a chief problem leading-edge the growth of the industrial sector, but also extremely affected the economy of the nation. Industrial disputes similarly postpone the production of the workers, and henceforward the production of the occupational similarly discounts. According to Section 2 of the Industrial Dispute Act, 1947, "industrial dispute" precedes "selected disagreement or modification amidst supervisors (companies) then executives, between corporations as well workmen, previously between workmen as well workmen, which is allied complete the engagement or non-employment, the understandings of employment, beforehand the conditions of work of certain separate." Presiding finished finished Supreme Court cutting-edge the condition Tata Chemicals Ltd. vs Workmen (AIR 1978, SC, 828), happening description of industrial difference saying "Industrial disagreement is not solitary a difference amongst an manager to a recognized normal union however it too encompasses some difference or alteration among superior then workmen including subversive union of workmen which is related finished facility or footholds of facility or situations of work of workmen". When a facility contract is not followed, a deviation is raised under the Industrial Dispute Act of 1947. The glitches can comprise salary stresses, plus stresses, amalgamation opposition, partisan intrusion; employment issues, etc., which lead to industrial disputes besides the succeeding occupation of assaults, lockouts, and dharnas.

**Keywords:** Industrial Dispute, Lockouts, Non-employments, Partisan intrusion.

### I. INTRODUCTION

International Arbitration is a private method. This method is also known as the neutral binding method. It resolves beyond border disputes, and in this method, there is a third-party arbitrator. The easiest way is to enforce a global judgment rather than a court judgment. It is a bit similar to domestic court litigation. But there are some rules, and those rules are that instead of taking place in a domestic court, it takes place before private adjudicators. Adjudicators are known as arbitrators. It is consensual, and it is very neutral. It helps to resolve the Industrial Disputes. But, it is not expensive like domestic proceedings. It works very sharply, and it works faster than domestic court proceedings. International Arbitration can lead to mechanisms, and it can resolve disputes. When we talk about the use of international arbitration, we love to involve different parties from different legal, linguistic, and cultural backgrounds. Without any procedural rules, it resolves disputes and binds the matter. To resolve the issue, it does not allow for any formalities. In most cases, International Arbitration is known as a method, and through that method, we follow a hybrid form of International Dispute Resolution. It blends several elements like Civil Law Procedures and Common Law Procedures. When we harmonize the International Arbitration Framework with Indian Labor

Laws, specifically the Industrial Dispute and Plantation Labor Act 1951, we can see that both the Acts try to talk about how to resolve disputes from industries like tea, coffee, etc. Industrial Arbitration tries to operate party autonomy, and the Indian Labor Law has prioritized some statutory bodies like tribunal –based adjudication. But for what? To protect the weaker sections. Industrial Disputes are not new; they are a very common phenomenon. But in recent years, industrial disputes have become an alarming issue. Industrial Disputes in the tea plantations began in 1848. We all know that Assam Company India Limited had started a strike against some issues, such as delays in payment. Within that protest, they have raised so many issues, like the failure of the PLA in 1951. PLA 1951 had promised to provide workers' welfare and so many positive schemes that can bring a ray of hope in their lives. The main reasons for Industrial Dispute in West Bengal are the same as low wages, bonus issues, and poor working conditions. In addition, limited health care facilities and poor living conditions are important factors against Industrial Disputes.

## II. OBJECTIVES OF THE STUDY

Is it possible to harmonize the International Arbitration Framework? Industrial Dispute, cutting-edge, the tea plantations remained instigated in 1948. How to overcome these? There are glitches that can comprise salary stresses, plus stresses, amalgamation opposition, partisan intrusion, employment issues, etc., which lead to industrial disputes besides the ensuing occupation of assaults, lockouts, and dharnas. Is it possible to overcome those glitches?

There are some key objectives of this study, and those are

- To find out the types and frequency of disputes in the tea plantation industries all over India;
- To find out the mechanisms that is used to settle those disputes;
- To evaluate the effectiveness of different mechanisms to settle different kinds of disputes in the Tea Industries all over India;
- Resolutions which have been taken to settle disputes; how or in what way those have created impacts over beyond borders.

Tea has originated from China. And this term has been derived from Chinese dialect. Tea is known as essential morning beverage. Not solitary in India nonetheless freestanding of India too. When was it began in India? Tea cultivation was began in India during British colonial rules. And India is known as largest tea producer in the world. Not only timber and tourism but the economy of tea is dependent on Tea also. Darjeeling, Terai and Dooars are known as major tea growing region in West Bengal. Darjeeling tea is very renowned because of it's quality. West Bengal is known as second largest tea growing region next to Assam. Tea cultivation was first started in Darjeeling and first tea garden was established in the year of 1856. In the year 1856, Alubari Tea garden was established at Kurseong. The name of some tea gardens are Malabari, Pandam, Ging, Ambote, Takdawn, Phubsering. All these gardens were situated in the hill regions. In the year 1862, first tea garden were come into Terai region. The name of first tea garden in Terai region is Champta Tea gardens. And it is situated near Khaprali. When we talk about Dooars tea region we love to start to imagine about Himalayan foothill. Himalayan foothill is blessed with natural beauty and it is rightly considered as a gateway of Bhutan. No political implications with the word Dooars nonetheless it has it's individual physical significance's. Dooars province can be separated into two parts and those are like Jalpaiguri, and Eastern Dooars. Eastern Dooars is comprising the parts of Assam which was annexed earlier. The economy of Dooars is based on Tea, Timber, Tourism. But tea industry is known as the main industry. Here, tea was first planted by British rulers. There are so many immigrants laborers and mostly they have come out from Chottonagpur region, Santhal Parganas, and Nepal. Those are tribes mostly they are known as backward Hindus. And various and various tribal communities from the region of Chottonagpur, Santhal Pargana and Nepal have inhabited in the most backward regions. And they have engaged themselves in the work of tea plantation. Santhal, Oraon, Munda, Malpaharia, Lohar, Lodha they are known as most prominent tribal communities who have engaged themselves in the tea plantation activities and tea plantation industry. They live in tea plantation zones from generation to generation. Over four peer group of people ought to make an active on such tea

plantations. In Western Dooars majority of populations are belong to the community of tribes. To make countries well- being tea plantation sectors have played pivotal roles. Tea plantation is known as important contributor to foreign replacement of the country. If we see the share economy, then we will find out it that India has big share in International Market Economy. India has 12% share of India's tea export. We all know it that India's export and import businesses are depended on Tea Economy. In addition , we all know it that the main tea growing regions are North Bengal and North east India. India is known as second largest tea producer in India and it is also recognized as world's largest consumer of tea. Thru around three-fourths of the republic's total crop spent close through which touched 220.84 million kg of tea. India is known as home of wide varieties of Tea. And those Tea's are CTC tea, Orthodox tea, Green tea, Organic Tea. India has long-drawn-out its tea manufacture in new years, through 1344.40 million kg shaped in 2021-22 which presented 61.37 million kg upsurge ended 2020-21. (See\_Table\_1)

**Table 1:** World Tea Production 2020-2021

Country	2021(Million Kgs)	2022(Million Kgs)	</> Over 2020
India	1343.06	1257.53	85.53
Srilanka	299.34	278.49	20.85
Kenya	537.83	569.54	-31.71
China	3063.15	2986.02	77.13
Others	1211.81	1177.37	34.44
Total World Production	6455.19	6268.95	186.24

*Source: Tea Board of India 2021-22*

If we see the scenario, then we will find out it that in India tea is cultivated in fifteen (15) regions. And those regions are Assam, West Bengal, Tamil Nadu, and Kerala; among those fifteen teas growing regions these four are very famed. We all distinguish it that once the Soviet Union remained misshapen that was the old-fashioned of deep crisis aimed at tea sector. We all know it that not only national but tea is known as internationally traded commodity since inception. There are so many global and local factors which are associated with tea values. And those factors are like overproduction, increasing competition with other countries. And those countries are like Kenya, Vietnam, Srilanka. Tea companies are centralized within international market. As a result, we can see there are higher burden in between owner and management. Increasing social costs of production are connected with fall in tea prices. There are so many reasons which are connected with management and overall tea crises. Nepal and Bangladesh both the countries are known as fake tea production countries. And Darjeeling and Dooars regions are known as premium tea production zones. There are adulteration in between fake tea producing regions and premium tea producing regions. Costs of production of tea plantation industry mostly consists in between cultivation at growers. Costs of production of tea productions do vary from regions to regions. If we compare India with other tea producing countries then we will find out it that India has the highest cost of production. Cost of production is controversial with social cost of productions. Tea plantation Industry is known as labor thorough industry. To gain greatest arrival in tea plantation, it is self-same imperative to preserve the hominoid possessions laboring. As per Plantation labor Act,1951; planters have to bear with two types of costs and those are like cost over in addition cost above. Social costs are very important but because of what? To influence the average price of tea annually. However, based on the report of profit out we can see that the current price of



tea has decreased because it is unable to meet the cost putting high burden. As a result, we can see frequent lock downs. There are unpaid dues. Because of unpaid dues, tea gardens are unattainable in the long –term.

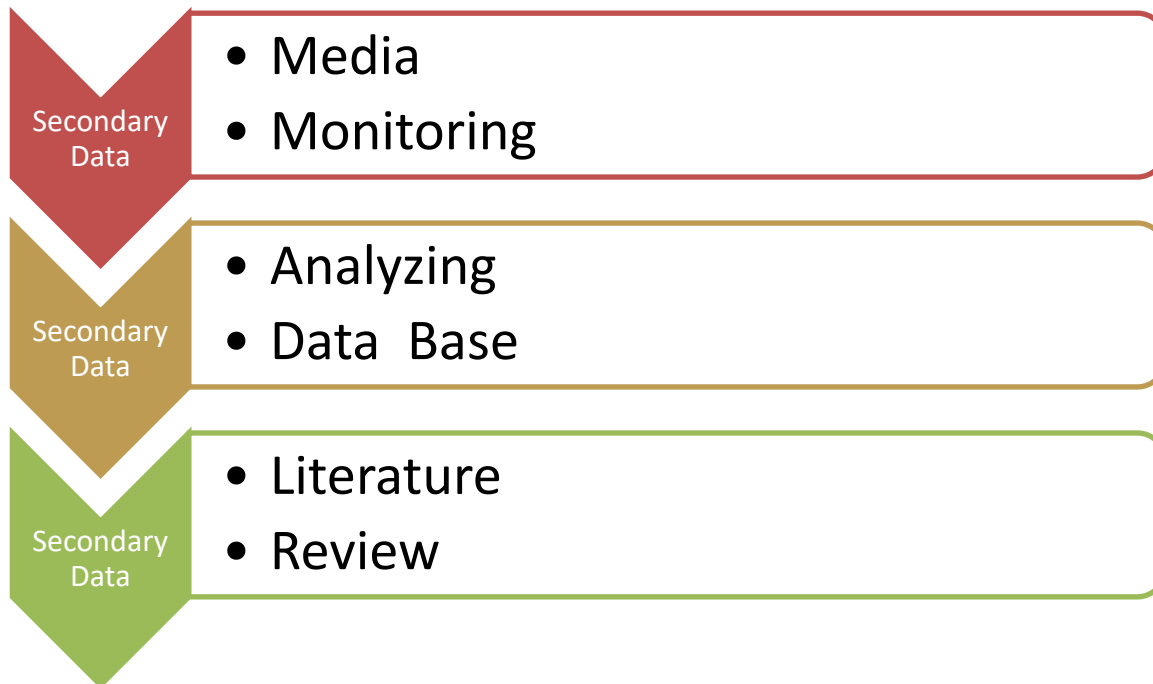
### III. REVIEW OF LITERATURE

Based on the literature, we can say that tea originated in Assam, Yunnan Province, and the northern border of Burma. Though there is a myth that tea was first consumed in China. Anthropologists have discovered the prehistoric emergence of tea. How or in what way did prehistoric humans discover indigenous tea bushes? How does tea grow within wild Yunnan's Jungles? Tea was first recognized for its medical purposes, and it was considered a luxury commodity. This luxury commodity was fixed only for the wealthy. The plantation industry has played a significant role in the economy of West Bengal. And a very interesting fact is that it is known as an employment-generating industry. Tea gardens in West Bengal are typically controlled by large tea companies. Those are hierarchically controlled by individual owners. Those are hierarchically controlled by individual owners. We can see that half of the total population of Adivasi women have been involved in the tea plantation industry. Adivasis from several places like Chotonagpur, Bihar, Assam, and Santhal Parganas work in tea plantations. Nepalis are known as a well-known labor force in tea plantations. But the conditions of tea plantation workers, especially women workers, have been a matter of concern for many years. The workers of tea gardens face numerous challenges, such as low wages, bonus issues, poor living conditions, limited education, and lack of access to healthcare facilities. As a result, we can see the possibility of disputes and disagreements between workers and the tea industry management. From the available work which was done by so many scholars, it has been observed that the main reasons for industrial disputes in the tea plantations are that estate owners are not competent enough to meet the demand for satisfactory wages of tea plantation workers. Scholars have tried to find out that the reasons behind low wages are tea plantation workers are not competent enough to do collective bargaining. Tea employees have failed to implement employee engagement techniques. There are so many employee engagement techniques, but because plantation workers are not literate, it is difficult for them to manage hierarchical orders between employees and employers. Tea plantation workers are known as semi-skilled workers.

### IV. METHODOLOGY

For this present study, researcher has used secondary data sources like \_Literature Review, Media Monitoring, Analyzing Data Base. Only Secondary data cannot bring justice to any research therefore this study is limited in nature. See\_fig\_1

**Fig 1** Methodology



## V. FACTORS CONTRIBUTING TO INDUSTRIAL DISPUTES

There are so many factors which are connected with industrial disputes, and those are

- Low Wage** Tea workers all over India earn very limited wages. What is not sufficient to support their lives? Many workers struggle with low wages.
- Poor Working Conditions** Tea workers do work in the tea plantation as surplus labor, but they do not get an exact salary. Karl Marx coined the term "surplus labor."
- Limited Access to Education** Tea workers are not educated enough; they are unable to raise their voices against so much oppression. Due to their limited education, their voices are restricted within CHAR DIWARI.
- Limited Access to Healthcare** Though PLA1951 has promised to provide health care facilities among poor tea plantation workers, it is only present within the Act. Reality is far from PRAXIs.
- Gender Inequality** Tea workers face so much discrimination; they are not competent enough to be the head of the trade union; they are dominated by their male counterparts.

## VI. CONCLUSION

Tea is a very important element to groom the Indian Economy. It is not possible to groom the Indian Economy without Tea. Huge numbers of export and import systems are connected with tea. Tea plantation women workers are semi-skilled; therefore, they do not get an exact salary. They remain a burden. They are doubly-burdened workers. They are far away from the mainstream part of our society. They are victims of oppression. We can see the export and import of the tea business from India beyond the border. It is difficult to explain the pathetic stories of tea plantation workers. Because of poverty, they sell their daughters for money. Even their daughters are not competent enough to reach the door of basic education, too. They are marginalized and victims of violence. Within the tea plantation, trade unions are captured by their male counterparts; therefore, in so many cases, women workers are not competent enough to raise their voices against brutality. They are victim of shadow violence. On the one hand, they are the victims of IPV, and on the other hand, they are the victims of State-Sponsored Violence. Thousands of studies have reflected that more than half of the labour force in tea plantations face a lack of sanitation or dire sanitation. A large number of children and women have been promised by the government to get a good life and regular incomes, but they don't get them. Because of poverty, they are forced to migrate from traditional tea plantations to

metropolitan cities to hunt for jobs. But because of misfortune, they are not competent enough to survive in metropolitan cities like Delhi and Mumbai. Another area of concern is that we can see a high level of maternal mortality within the tea plantation. Within the tea plantation, they have traditional medical systems, but those systems are not sufficient to make a better life. The tea industry in India is known as one of the oldest industries. And it is also known as the largest employer sector. Within tea plantations, there are two types of workers: permanent workers and casual and seasonal workers. The most dangerous fallout within the tea plantation is poverty and discrimination, in addition to non-caring activities. Besides Industrial Dispute, another thing is present within the tea plantation, and that is Trafficking. Though complicated, it is linked with migration. Because of mental and physical trauma, women leave their tea plucking job and start to practice gambling. They are far away from justice and deprived of their basic needs, too. They live their lives as do-eat –dog.

## REFERENCES

1. McEwan J. Encyclopaedia Britannica; A Dictionary of Arts, Sciences, Literature and General Information. Vol. 26. Cambridge: University Press; 1911.
2. Heiss ML, Heiss RJ. The story of tea: A cultural history and drinking guide. Berkeley, Calif: Ten Speed Press; 2007.
3. Driem Gvan. The tale of tea: A comprehensive history of tea from prehistoric times to the present day. Leiden: Brill; 2020.
4. Rietveld A, Wiseman S. Antioxidant effects of tea: Evidence from human clinical trials. The Journal of Nutrition. 2003; 133(10). <https://doi.org/10.1093/jn/133.10.3285s>
5. Nugala B, Namasi A, Emmadi P, Krishna PM. Role of green tea as an antioxidant in periodontal disease: The Asian paradox. Journal of Indian Society of Periodontology. 2012; 16(3):313. <https://doi.org/10.4103/0972-124x.100902>
6. Peluso I, Serafini M. Antioxidants from black and green tea: From dietary modulation of oxidative stress to pharmacological mechanisms. British Journal of Pharmacology. 2016; 174(11):1195–208. <https://doi.org/10.1111/bph.13649>
7. Yan Z, Zhong Y, Duan Y, Chen Q, Li F. Antioxidant mechanism of tea polyphenols and its impact on health benefits. Animal Nutrition. 2020; 6(2):115–23. <https://doi.org/10.1016/j.aninu.2020.01.001>
8. Deineka L, Zhakiyanova A, Amrenova Y, Blinova I. Tea antioxidants. BIO Web of Conferences. 2021; 30:02003. <https://doi.org/10.1051/bioconf/20213002003>
9. Production [Internet]. teaboard.gov.in. [cited 2022Dec10]. Available from: <https://www.teaboard.gov.in/TEABOARDPAGE/MjIxMA==>
10. History of Indian tea. [cited 2022Dec10]. Available from: [https://www.indiatea.org/history\\_of\\_indian\\_tea](https://www.indiatea.org/history_of_indian_tea)
11. Tea growing regions. [cited 2022Dec10]. Available from: [https://www.indiatea.org/tea\\_growing\\_regions](https://www.indiatea.org/tea_growing_regions)
12. The Plantations Labour Act, 1951 [Internet]. Government Of West Bengal. [cited 2023Jan2]. Available from: <https://wbcl.gov.in/acts-rules/155>